S. HRG. 100-298

FAA INDEPENDENT ESTABLISHMENT ACT OF 1987

HEARINGS

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

S. 1600

TO ENCHANCE THE SAFETY OF AIR TRAVEL THROUGH A MORE EFFECTIVE FEDERAL AVIATION ADMINISTRATION, AND FOR OTHER PURPOSES

SEPTEMBER 10 AND OCTOBER 7, 1987

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FAA INDEPENDENT ESTABLISHMENT ACT OF 1987

THURSDAY, SEPTEMBER 10, 1987

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON AVIATION,
Washington, DC.

The subcommittee met at 2:07 p.m. in room SR-253, Russell Senate Office Building, Hon. Wendell H. Ford (chairman of the subcommittee) presiding.

Staff members assigned to these hearings: Steve Palmer, professional staff member and Patty Hahn, minority staff counsel.

OPENING STATEMENT BY SENATOR FORD

Senator FORD. In the interest of time, I have a brief opening statement, and I believe Senator Kassebaum would like to make a statement.

Two of our colleagues, Senator Lautenberg and Senator Humphrey, will be testifying a little later, and I had hoped they would be here before we started. But we will move on and hopefully they will arrive very shortly.

The Aviation Subcommittee today begins its consideration of S. 1600, legislation Senator Kassebaum and I have introduced along with Senator Byrd and Senator Lautenberg to establish an independent Federal Aviation Administration, separating it from the Department of Transportation.

By holding this hearing, the first of a series, I want to begin an extensive public dialogue designed to provide for the long term viability of the Federal Government to ensure aviation safety. This legislation and that dialogue are critical because of the increasing "crisis in confidence" by the public over aviation safety, of which everyone in this room I believe is keenly aware.

We have had an active year so far in aviation, considering, among others, legislation to provide for increased airport capacity and continued modernization of our air traffic control system. These critical steps must be enacted as soon as possible to ensure that the air transportation system of this nation can operate efficiently and grow to meet the future demands of the traveling public.

Our reauthorization bill, as well as the others that await Senate consideration, are designed to address many of the aviation problems that are currently before us. Yet we need more.

We need to begin developing a long term framework for ensuring that the Federal Government can provide the necessary aviation infrastructure to ensure adequate capacity and safety into the next century. This is what I had in mind when we introduced S. 1600.

In 1966, when DOT was created, the FAA was placed under the new umbrella organization. This was done with good reason, as it was envisioned that the FAA would continue to perform the day to day activities related to aviation safety and yet have a cabinet level person providing the necessary access to the President and OMB.

Over time, that relationship has changed. In recent years, especially during the current Administration, the Secretary and the DOT staff have seemingly found it necessary to meddle in nearly every action taken by the FAA. In my view, while helpful in certain instances, this consistent interference has hindered the FAA in its efforts to regulate aviation operations and ensure continued safety.

While introducing S. 1600 last month, I stated that it was my desire to have input from all facets of the aviation industry, the executive branch, and the public at large on providing additional meat for this legislation. This bill is only the first step in the legislative process to establish an independent FAA, and I welcome the input of others to ensure that it is equipped to succeed at its job.

During today's hearings, as well as those that follow, I intend to develop a record for not only why an independent FAA is needed, but what tools the agency must have to fulfil its mission in the future.

In this light, I intend to examine, among others, FAA's current budgetary, personnel, and procurement policies, seeking out alternatives that will improve upon existing methods of operation.

We begin today by hearing from several individuals who have had first-hand experience with how the DOT-FAA relationship works. Joining us are the first Secretary of Transportation, Allen Boyd, as well as three former FAA Administrators.

I welcome each of them and look forward to their statements this afternoon.

I am very pleased that the distinguished Senator from Kansas, Senator Kassebaum, is here. And Senator, if you have an opening statement we would be pleased to have it.

OPENING STATEMENT BY SENATOR KASSEBAUM

Senator KASSEBAUM. Thank you, Mr. Chairman. Just a very brief one, because unfortunately I have to leave and will miss hearing the witnesses. It is a distinguished group, who I think can offer us some fine testimony that will help guide us.

As a cosponsor of S. 1600, I am a strong supporter. I have come to believe, with the budgetary problems that we go through annually in trying to get the appropriations that we have authorized, we need to have an agency dedicated solely to the concerns of aviation.

There are too many tradeoffs, when you balance the many different facets of transportation that are under the Secretary of Transportation and OMB's designation for transportation.

This bill is not going to solve all of these issues, but I think with the increased pressures and changes that have occurred in aviation

today, that an independent agency could perhaps solve some of today's problems in a more efficient and effective manner.

It is for these reasons that I look forward to working with you, Mr. Chairman, on legislation that will better serve the industry and the public today.

Senator FORD. Thank you very much.

Senator McCain, we are delighted to have you. Do you have a statement?

Senator MCCAIN. No. Thank you, Mr. Chairman.

Senator FORD. Fine.

I have two statements I would like to include in the record, the statement from the distinguished chairman of the full committee, Senator Hollings, and one from Senator Stevens, and without objection those two statements and the bill will be included in the record.

[The statements and bill follows:]

OPENING STATEMENT BY THE CHAIRMAN

Mr. Chairman, the past 18 months in aviation have been record-breaking. These records, however, are not the kind of which we should be proud. During this short period of time we have witnessed drastic increases in the number of near mid-air collisions, air traffic controller operational errors, and runway incursions—not to mention the recent tragic accident in Detroit last month which claimed 156 lives.

Our air transportation system is overloaded and both in-flight safety and on-time performance are suffering badly. The familiar adage—"if it ain't broke, don't fix it"—doesn't apply here.

Things are broken. And they had better be fixed.

The FAA has the responsibility to ensure safety and efficiency in the aviation industry. The important issue before us today therefore is why the FAA hasn't been able to fulfill its responsibilities and why in the public's eye, safety is suffering.

While air traffic has increased on the average of approximately five percent annually since airline deregulation became law, the number of air traffic controllers and airline inspectors have failed to keep pace. And the additional capacity needed at our nation's airports has not appeared. Yet, the surplus in the Aviation Trust Fund continues to grow beyond $5 billion.

In view of the FAA's increasing inability to adequately respond to the changes within the airline industry created by deregulation, I welcome the opportunity to explore this matter in depth, as well as to review this legislation.

The aviation industry transports billions of dollars worth of goods and millions of people each year. As an industry marked by rapid change and growth, we must do all we can to ensure that the FAA—the agency mandated with the responsibility of maintaining its safe and efficient operation—is equipped to accomplish that task.

In that light, I applaud Senator Ford for taking this opportunity to explore how that can best be done. I look forward to this hearing, as well as those that follow with keen interest.

OPENING STATEMENT BY SENATOR STEVENS

Public confidence in the national air transportation system is reaching an all time low. The daily litany of complaints and concerns demands that we roll up our sleeves and really come to terms with the problems so obviously afflicting the FAA and the aviation industry. The long-term integrity of our air transportation system requires a strong and rational response from Congress—not cosmetic or band-aid type short-term remedies.

To this end, Senator Inouye and I introduced S. 1159, the National Aviation Authority Act of 1987 this past May. More recently, you Mr. Chairman, Senator Kassebaum along with Senators Byrd and Lautenberg introduced S. 1600, the Federal Aviation Administration Independent Establishment Act of 1987. Both of these bills share a common purpose by seeking to serve as catalysts for solving similar aviation problems. Both initiatives recognize the necessity for major, structural changes in the FAA/DOT relationship. While S. 1159 details possible solutions for the chronic problems of FAA funding, procurement and personnel, S. 1600, and this series of

hearings, contemplates the emergence of such solutions from the hearing process. The important thing is, of course, not that we enact one particular bill or another, but rather that we find the answers and act upon them expeditiously.

It is my own view that the resolution of the complex set of problems which is eroding public faith in air transportation must begin with the realization that the Airport and Airway Trust Fund has not worked and is not working. We must correct this situation once and for all and ensure that the FAA has an absolute assurance of access to an adequate level of guaranteed funding, year in and year out. In tandem with this action, it stands to reason that we should seek to afford FAA management the necessary flexibility to deal with the unique equipment development and acquisition problems of the FAA—adequate funding is of little utility in the absence of an ability to respond quickly to identified needs. As you pointed out when you introduced S. 1600, Mr. Chairman, it is vital that we simplify the procurement process and related procedures. Traditional practices are cumbersome and need to be altered and brought up-to-date.

As an editorial in the August 24, 1987 edition of *Aviation Week* magazine aptly pointed out, ". . . [A]ir safety is not an issue which can be addressed by throwing money at it. But the system has many problems that could be reduced or eliminated by the judicious application of advanced technology systems. And, advanced technology in any form costs money." We must find a way to get the money to work on the problems quickly, directly and efficiently.

It seems to me that we all share a determination to revitalize the FAA and clean up many of its problems. I look forward to working with you, Senator Kassebaum, and others on the Committee on legislation that can result in a permanent solution to aviation problems we have been talking about for years. I hope we will leave no avenue unexplored—including the remedies outlined in S. 1159. Like S. 1600, it was never intended that the National Aviation Act would be enacted verbatim. Just as S. 1600 makes a good start toward finding solutions to many of the problems by calling for a less politicized agency under strong, consistent leadership, S. 1159 contains a number of carefully reasoned and balanced ideas which can facilitate our efforts. It is obvious that there are numerous deficiencies in the current FAA organization and structure that warrant change. The American people have paid for more than they are getting. The time is right to be working for a national system that is safe and efficient and able to accommodate air travel demands.

We are all determined to come to grips with the task of resolving the problems encountered by the FAA and I hope we will work energetically in fleshing out this legislation in the months ahead.

100TH CONGRESS
1ST SESSION

S. 1600

To enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 6 (legislative day, AUGUST 5), 1987

Mr. FORD (for himself, Mrs. KASSEBAUM, Mr. BYRD, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Aviation Administration Independent Establishment Act of 1987".

FINDINGS

SEC. 2. The Congress finds that—

(1) the civil aviation industry in the United States has, over the past decade, experienced an unprecedented period of rapid development and expansion;

(2) during this period of development and expansion, the Federal Aviation Administration, the administration within the Department of Transportation charged by Congress with the responsibility for overseeing the safe operation of this essential segment of the national economy, has performed its responsibilities in a professional and competent manner, albeit under an organizational structure which substantially predates this period of rapid development and expansion;

(3) the Federal Aviation Administration can perform more effectively within a more streamlined and consistent organizational structure, possessed of the essential management tools necessary to fulfill its mission of ensuring improved and enhanced safety of civil air operations; and

(4) if the Federal Aviation Administration is provided with greater managerial autonomy and consistent leadership, the Federal Aviation Administration can be expected to exercise vigorously its prerogatives under the ongoing oversight of the Congress and with the assistance and guidance of the President.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "Administration" means the Federal Aviation Administration established under section 4; and

(2) the term "Administrator" means the Administrator of the Federal Aviation Administration appointed under section 5(a).

ESTABLISHMENT

SEC. 4. There is established as an independent establishment of the Government the Federal Aviation Administration. The Administration shall succeed the Federal Aviation Administration of the Department of Transportation in existence on the day before the effective date of this Act.

OFFICERS

SEC. 5. (a) The Administration shall be administered by an Administrator, who shall be appointed by the President to a seven-year term of office, by and with the advice and consent of the Senate. The Administrator shall carry out all functions transferred to the Administrator by this Act and shall have authority and control over all personnel, programs, and activities of the Administration. The Administrator shall be compensated at the rate prescribed for level II of the Executive Schedule pay rates.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Administrator shall perform such functions, duties, and powers as the Administrator shall prescribe. The Deputy Administrator shall act for and perform the functions of the Administrator when the Administrator is absent or unable to serve, or

when the office of the Administrator is vacant. The Deputy Administrator shall be compensated at the rate prescribed for level III of the Executive Schedule pay rates.

(c) There shall be in the Administration seven Associate Administrators, who shall be appointed by the Administrator. The Associate Administrators shall perform such functions as the Administrator shall prescribe. The Administrator shall designate the order in which the Associate Administrators shall act for and perform the functions of the Administrator when the Administrator, or in the Administrator's place the Deputy Administrator, is absent or unable to serve, or when either the office of the Administrator or the office of the Deputy Administrator is vacant. An Associate Administrator shall be compensated at the rate prescribed for level IV in the Executive Schedule pay rates.

(d) There shall be in the Administration a Chief Counsel, who shall be appointed by the Administrator. The Chief Counsel shall be the chief legal officer for all legal matters arising from the conduct of the functions of the Administration. The Chief Counsel shall be compensated at the rate prescribed for level IV of the Executive Schedule pay rates.

(e)(1) Each of the officers referred to in this section must be a citizen of the United States; must be a civilian; and must have experience in a field directly related to aviation.

(2) Such officers may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.

POWERS

SEC. 6. (a) The Administrator shall be responsible for the exercise of all powers and the discharge of all duties of the Administration.

(b) In carrying out the functions of the Administration under this Act, the Administrator shall be governed by all applicable statutes, including the policy standards set forth in the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.).

(c) Decisions of the Administrator made pursuant to the exercise of the functions enumerated in the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.) shall be administratively final, and appeals as currently authorized by law shall be taken directly to the National Transportation Safety Board or to any court of competent jurisdiction, as appropriate.

(d) The Administrator shall not submit decisions for the approval of, nor be bound by the decisions or recommendations of any committee, board, or other organization created by Executive order.

TRANSFERS AND INCIDENTAL PROVISIONS

SEC. 7. (a) The following are transferred to the Federal Aviation Administration, the independent agency:

(1) All functions vested by law in the Federal Aviation Administration in the Department of Transportation or its Administrator, and all functions vested by law in the Secretary of Transportation or the Department of Transportation which are administered through the Federal Aviation Administration or are related to the Federal Aviation Administration, including those exercised under the following laws and provisions of law:

(A) the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.), except for those functions exercised under section 305 of that Act relative to fostering the development of civil aeronautics and air commerce, exercised by the Secretary of Transportation under title IV of that Act as successor to the Civil Aeronautics Board, and exercised by the Secretary under titles XI or XII of that Act relative to international air commerce;

(B) section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)) along with all functions, duties, and powers which at any time had been vested in the Administrator of the Federal Aviation Administration prior to the revision of title 49, United States Code by Public Law 97–449 (96 Stat. 2413);

(C) the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2201 et seq.);

(D) the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.), to the extent that such Act pertains to the transportation of hazardous materials by air;

(E) the Independent Safety Board Act of 1974 (49 App. 1901 et seq.) insofar as it relates to transportation by air; and

(F) the Aviation Safety and Noise Abatement Act of 1979 (49 App. U.S.C. 2101 et seq.).

(2) The functions of the Department of Transportation or the Federal Aviation Administration in the Department of Transportation incidental to, helpful to, or necessary for, the performance of the functions transferred by subsection (a)(1) or which relate primarily to those functions.

(3) So much of the personnel, property, records, funds, accounts, and unexpected balances of appropriations, allocations, and other moneys of the Department of Transportation as are employed, used, held, available, or to be made available in connection with the functions transferred by subsections (a)(1) and (a)(2).

(b) The personnel transferred under this section shall be so transferred without reduction in classification or compen-

sation, except that after such transfer, such personnel shall be subject to changes in classification or compensation in the same manner, to the same extent, and according to the same procedure, as provided by law.

(c) The Administrator of the Federal Aviation Administration, an independent agency, shall exercise all functions transferred by subsection (a) of this section or any other function vested in the Federal Aviation Administration or the Administrator of the Federal Aviation Administration by any law subsequent to enactment of this Act. The Administrator may from time to time make such provisions as the Administrator shall deem appropriate authorizing the performance by any other officer, employee, or office of the Federal Aviation Administration of such functions.

RULES; REGULATIONS

SEC. 8. In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to make, promulgate, issue, rescind, and amend rules and regulations. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5, United States Code.

DELEGATION

SEC. 9. Except as otherwise provided in this Act, the Administrator may delegate any function to such officers and employees of the Administration as the Administrator may designate, and may authorize such successive redelegations

of such functions in the Administration as may be necessary or appropriate. No delegation of functions by the Administrator under this section or under any other provision of this Act shall relieve the Administrator of responsibility for the administration of such functions.

PERSONNEL AND SERVICES

SEC. 10. (a) In the performance of the functions of the Administrator and in addition to the officers provided for by section 5, the Administrator is authorized to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and compensated in accordance with title 5, United States Code.

(b) The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(c) The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57 of title 5, United States Code.

(d) The Administrator is authorized to utilize, on a reimbursable basis, the services of personnel of any Federal agency.

(e)(1)(A) The Administrator is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Administrator is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under subsection (e)(1)(A) shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

CONTRACTS

SEC. 11. The Administrator is authorized, without regard to the provisions of section 3324 of title 31, United States Code, to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, agreements, and transactions with any Federal agency or any instrumentality of the United States, or with

any State, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate. The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

USE OF FACILITIES

SEC. 12. With their consent, the Administrator may, with or without reimbursement, use the services, equipment, personnel, and facilities of Federal agencies and other public and private agencies, and may cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate fully with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies and equipment other than administrative supplies or equipment.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 13. (a) The Administrator is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(A) air traffic control facilities and equipment;

(B) research and testing sites and facilities; and

(C) such other real and personal property (including office space and patents), or any interest therein within and outside the continental United States,

as the Administrator considers necessary;

(2) to lease to others such real and personal property; and

(3) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at its installations and to purchase and maintain equipment for such facilities.

(b) Title to any property or interest therein acquired pursuant to this section shall be in the United States.

(c) The authority granted by subsection (a) shall be available only with respect to facilities of a special purpose nature that cannot be readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Administration by the Administrator of General Services.

(d) The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

FACILITIES AT REMOTE LOCATIONS

SEC. 14. (a) The Administrator is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) meeting facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for schoolage dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under subsection (a)(1) and the furnishing of services and supplies under subsection (a)(2) shall be at prices reflecting reasonable value as determined by the Administrator.

(c) Proceeds derived from reimbursements under this section shall be deposited in the Treasury and may be with-

drawn by the Administrator to pay directly the cost of work or services provided under this section, to repay or make advances to appropriations of funds which do or will bear all or a part of such cost, or to refund excess sums when necessary, except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds if the fund is available for use by the Administrator for performing the work or services for which payment is received.

TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES

SEC. 15. The Administrator is authorized to accept transfers from other Federal agencies to funds which are available to carry out functions transferred by this Act to the Administrator or functions assigned by law to the Administrator after the date of enactment of this Act.

SEAL OF ADMINISTRATION

SEC. 16. The Administrator shall cause a seal of office to be made for the Administrator of such design as the Administrator shall approve. Judicial notice shall be taken of such seal.

STATUS OF ADMINISTRATION UNDER CERTAIN LAWS

SEC. 17. For purposes of section 551 of title 5, United States Code, the Administration is an agency. For purposes of chapter 9 of such title, the Administration is an independent regulatory agency.

SAVINGS PROVISIONS

SEC. 18. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in regard to functions which are transferred under this Act to the Administration on or after the date of enactment of this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect; and such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made

pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance of modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c)(1) The provisions of this Act shall not affect suits commenced prior to the date this Act takes effect.

(2) In all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) In any case involving one or more officers required by this Act to be appointed by and with the advice and consent of the Senate who shall not have entered upon office on the effective date of this Act, the President may designate any officer whose appointment was required to be made by and with the advice and consent of the Senate, and who was such an officer immediately prior to the effective date of this Act, to act in such office until the office is filled as provided in this Act. While so acting, any such person shall receive compensation at the rates provided by this Act of the respective office in which he or she acts.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act. Notwithstanding any other provision of law, there are authorized to be appropriated, for any fiscal year beginning after September 30, 1987, for use of the Administration, such sums as are specifically authorized to be appropriated as of the date of enactment of the Act.

LAWS AND REGULATIONS

SEC. 20. Except to the extent otherwise provided in this Act, all laws, rules, and regulations in effect and applicable to the Federal Aviation Administration of the Department of Transportation and to the Administrator of such Administration on the date immediately preceding the effective date of this Act shall, on and after such effective date, be applicable to the Federal Aviation Administration and the Administrator established by this Act, until such law, rule, or regulation is repealed or otherwise modified or amended.

REPEALS

SEC. 21. Section 106 of title 49, United States Code, is repealed.

EFFECTIVE DATE

SEC. 22. The provisions of this Act shall take effect upon the expiration of the one-hundred-and-eighty-day period following the date of enactment of this Act.

O

Senator FORD. We are very pleased today to have Senator Lautenberg, who is a cosponsor of S. 1600, to testify. Frank, we are delighted to see you, and you may proceed with your testimony. You can highlight it or go through the whole statement. It's up to you.

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. I will take the liberty, Mr. Chairman, of reading the entire statement. It is not too long, at least not for me. But I appreciate the opportunity to appear before you and the members of the subcommittee.

I am chairman, as you know, of the Transportation Appropriations Subcommittee and an original cosponsor of S. 1600. I am concerned about the way our government has managed the nation's aviation system, and I share your view, Mr. Chairman, that fundamental changes must be made. Among them, making the FAA an independent agency would be a first critical step.

This hearing marks the beginning of Senate consideration of legislation that would lay the groundwork for freeing the FAA from the Department of Transportation, and I look forward to working closely with you and members of this committee throughout this process.

Recently a columnist echoed many of our sentiments, writing of a "chaos in the air." Mr. Chairman, too much of that chaos has its roots in the ground, in the management of our system.

Our system lacks airport capacity. Our control towers are understaffed and overworked. Maintenance and safety inspection crews were cut and are inadequately trained. A multi-billion dollar plan to upgrade our control technology is years behind schedule.

And that is not all that is wrong with aviation. But they are things that trace back to the government itself. The executive branch has not done a good enough job of planning our aviation system. One day the Congress is told that the controller work force is growing to meet the needs and the next day we are told that we need 1,000 more controllers.

Does this mean that poor management led the agency to so widely miss the mark? Or were the facts suppressed until the pressure became too great?

Many of the problems that we see at FAA today are due to a lack of adequate long range planning and management. Although the problems have come to a head in recent months, they are not new problems. They are results of years of mismanagement. Shortsighted budgetary and political pressures have inhibited the FAA and kept it from doing its job adequately.

We cannot legislate better managers. Mr. Chairman, I see Admiral Engen and others who have been involved in the management of FAA and DOT, and I want the record to reflect the fact that these people did a conscientious and effective job. I think that, frankly, they were hobbled by the system, inhibited by the fact that they could not make the decisions that they had to and see the fruition of those decisions take place.

Though we cannot legislate better managers, we can legislate an organization in which managers are free to do their job. Perhaps

the most important way we can help FAA do its job over the next decades will be to free it from the daily political pressures within its parent department. The FAA needs to earn its wings, and we have to give it a chance to do so.

We now have the third FAA Administrator in the Reagan Administration, Mr. McArtor. Mr. Chairman, before coming to this body I ran a company of over 15,000 employees, and I can assure you that without a stable, professional management at the top, people who are in it for the long run, an agency the size of FAA simply cannot function adequately.

The complexity of its task demands years of consistent management. The NAS plan is as complex and expensive as almost any program under way in government. Because flying has become such an integral way of life for Americans, its success is imperative.

Our bill provides the framework for an independent FAA. I would like to suggest for the committee's review a proposal to flesh out that framework, to take it a step further, to provide an independent FAA with a stable long-term management it needs.

The FAA needs to be insulated from daily political and budgetary pressures that it now faces. We can look for examples to independent governmental bodies, such as the Federal Reserve Board and independent regulatory agencies.

I think we should consider remolding the FAA so it is governed by a board and run by a professional administrator. The board would be appointed by the President, with the advice and consent of the Senate.

The board members should serve staggered terms, to prevent any one President from stacking the agency. They would bring a variety of skills and expertise to the job, much like a corporate board. One member, elected by the board, would serve as chairman.

And the board, not the President, would appoint an administrator or a CEO, if you will. That Administrator would be insulated from the President, insulated from the Congress, but accountable to the board that is in turn accountable to the public.

Mr. Chairman, this format would provide the continuity and the insulation that the FAA so badly needs. It would allow it to function more smoothly and to set long term goals and plans. And more importantly, it would mean that those who set the agenda are around to see the results, good or bad.

It would set the stage for ambitious, bright professionals at the FAA to aspire to high management, knowing that their careers will not be brought down with the results of any particular election.

I have met a good number of dedicated, committed people at FAA. They want to do the best job they can, and they deserve the stability to let them do that job.

It would allow for something we all want to see: better spending out of the trust fund. We continually hear calls for more spending out of the trust fund. The pending trust fund bill would provide for increased spending levels, and I commend the chairman for that.

And I can assure the committee that my subcommittee will work to see that the spending of those dedicated funds is increased, in accordance with the ability of the agency to spend them properly. I

do not think any of us want to see any more examples like $17 million worth of computers sitting in a warehouse in Texas because the software to drive them is not ready to go.

The fact is, Mr. Chairman, that we cannot in good faith just throw more money at the problem. The FAA simply has not demonstrated the ability to spend it. The NAS plan is up to 8 years behind schedule, and billions of dollars over budget. The last 2 years have brought billion dollar deferrals from the FAA, as technical and managerial problems have disrupted implementation of the plan.

We need more spending, but we need better spending. And we need an independent, professional FAA to manage that spending.

Mr. Chairman, I thank the committee again for its time and look forward to working with you as we continue to strive to make our national aviation system safer and more effective.

Senator FORD. Senator Lautenberg, we thank you for coming today. We know how hard you have worked and how interested you have been, and we appreciate your support and effort in working with this subcommittee. And we look forward to working with you.

I have no questions. Senator Kassebaum?

Senator KASSEBAUM. Neither do I.

Senator FORD. Senator McCain?

[No response.]

Senator FORD. We thank you for coming today, and we are very appreciative of your testimony.

Senator Humphrey, if you would like to sit in a warm chair or a cool one, you have got your choice. We look forward to your testimony today, and you may proceed.

STATEMENT OF HON. GORDON J. HUMPHREY, U.S. SENATOR FROM NEW HAMPSHIRE

Senator HUMPHREY. Thank you, Mr. Chairman.

There is always a lot of flowery oratory around this place, but I can tell you with assurance that hundreds of thousands, if not millions, of airline passengers are mighty grateful to you for having this hearing.

As a former airline pilot, as one who commutes to Washington weekly by airline service, and as a general aviation pilot, I retain a very keen interest in aviation matters. I subscribe to about six aviation magazines, I would say, interject. I do not have time to read them, but I look at them as much as I can.

Mr. Chairman, the bottom line of my testimony is this. With my background, I have frankly lost faith in the ability of the FAA to deal with the problems that have arisen by virtue of deregulation of the airline industry. I am not, however, in favor of re-regulation.

Quite the contrary, I think we need, in a sense, to deregulate the air traffic control system. By deregulate, I do not mean privatize, although I would certainly be willing to entertain that idea. But I mean more particularly to extricate, to extract, to rescue, the air traffic control system, its personnel, from the existing bureaucracy.

So I am here to cheer you on, and indeed to cheer you on even further than you might be prepared to go, or at least you stated you are prepared to go.

Statistics show, we are glad to see, a decline in accidents and fatalities in the airline industry since deregulation. I think that is important to know because there is an awful lot of sensationalism in the media today on this point. I will repeat: Statistics show a decline in accidents and fatalities in the airline industry.

At the same time—and this is the point on which we need to focus—at the same time, there are warning flags flying all over the place that things are going to begin to get a lot worse if we do not soon make some changes. In other words, we cannot rest on our laurels, nor can the airlines or all of those involved in air transport cannot rest on their laurels, nor can we in Congress, by virtue of the fact that accident and fatality statistics have gone down, because they are going to start going back up, hopefully later than sooner.

But they are going to start going back up if we do not do something, if we do not change the status quo.

Mr. Chairman and members, I view S. 1600 as a step in the right direction. But in my opinion, frankly, it will not go far enough to ensure the safe and efficient operation of our air transport system.

While the bill would free the FAA from the grip of the Department of Transportation's bureaucracy, it would still leave the air traffic control system embedded in the bureaucracy of the FAA itself, which to me is second only to the IRS as a hidebound bureaucracy.

The pressures on the air traffic control system will only grow in the future. Aviation has been our fastest-growing—boy, here is some real staff phraseology—fastest-growing mode of infrastructure. It is growing like crazy, and faster even than our predictions a few years ago.

And the FAA estimates by the turn of the century 13 years from now—yes, that is when it is, 13 years from now—emplanements will nearly double the 1984 levels, nearly double those of 1984—a doubling of passengers in 16 years.

I will bet that estimate is way conservative. We will more than double in 16 years. In its most recent forecast, the FAA predicts passenger traffic will grow at an average rate of almost six percent over the next two years alone, and five percent until the end of the century.

And even more alarming, the FAA projects traffic at airports with FAA towers to increase by 34 percent by 1998, and traffic handled by the FAA's en route centers to grow by 33 percent. So it is growth and rapid growth.

And here is the point. I mean, if we are to expeditiously modernize and expand the capacity of our air traffic control system and the nation's airports to meet these future demands, we need to do two things: we need a streamlined agency with minimal bureaucracy, which can respond quickly and innovatively and with the latest technology; and two, we need to free the aviation trust fund from the cynical and dangerous games which have resulted in the impoundment of nearly $6 billion that ought to have been spent on its intended purpose, the enhancement of air safety.

And I say it is a dangerous game, Mr. Chairman, because we are gambling, we in Congress and the Administration are gambling,

with the lives of passengers. It is that simple, gambling with the lives of passengers in order to make the budget deficit look smaller.

And sooner or later, if this game is not ended passengers are going to die because of this game.

There is another proposal which embodies the logic of S. 1600 and which in my opinion would more fully accomplish the aims of S. 1600, and that is the legislation introduced by Senator Inouye, which would create a Government corporation to manage the ATC system. The bill, strongly supported by the Air Transport Association, would create a user-funded national aviation authority to operate the system. The authority would collect and disburse airport and airway trust funds and use them for long overdue improvements.

This proposal would combine three changes which the chairman has supported: First, it would free the ATC system from Department of Transportation meddling and micromanagement;

Second, it would rescue the vital trust fund from inside-the-Beltway budget games;

And third, it would leave a residual FAA to concentrate solely on aviation safety. And that's a beautiful byproduct of this proposal, as it would free the FAA to concentrate solely on the enforcement of safety, the promulgation and enforcement, and enforcement, thorough enforcement, of aviation safety regulations. That is an important benefit.

There is strong suspicion today among air travelers that airlines are cutting their corners, and we need to find out and we need to ensure that no corners are cut now or in the future.

Concrete steps must be taken soon to deal with the growing mismatch between the demand by the users of the system on the one hand and the capacity of the system on the other. The chairman is right on target in focusing attention on the FAA, and I urge the chairman and members to seriously consider rescuing ATC and the airports, not only from the Department of Transportation, but from the FAA bureaucracy itself.

Thank you.

Senator FORD. Thank you, Senator. With your knowledge and experience, it's important, I think, to have your support. You understand this issue probably better than anyone on this committee, because of your background.

I am very appreciative that you are here in support of S. 1600. And one of the things I said early is that we are beginning a dialogue to see if we cannot flesh out this piece of legislation.

What we are starting to hear today and hopefully begining to move on, are those things that we all believe that need to be done. We may not all see it exactly the same way. But that's the nature of this body. And I do appreciate your interest.

Senator Kassebaum, Senator McCain, Senator Humphrey we thank you and do appreciate your coming back.

Senator HUMPHREY. I thank you, Mr. Chairman. I just finally would say this, if I may, that time is of the essence. We really need to get going.

We are already behind the power curve, as airline pilots like to say. Senator McCain, I think, understands that expression. We

need to play catch-up and catch-up fast before fatalities catch up with air transport.

Senator FORD. Well, we are sitting here now with games being played on the Senate floor with the reauthorization bill.

We have now lost eight weeks in our attempt to see that that bill is brought before the Senate, goes to conference, and we get it out, hopefully, before October 1st. I assure you I am doing everything I can to try to work that out.

But as I say, it is the system here, and hopefully that could be worked out very shortly. We could move forward. Thank you for your support.

If we could, we are going to try something and see if all of the witnesses who are here to testify will come up front, and sit at the table. We will have former Secretary Boyd, and former Administrator Engen, Helms, and Halaby.

If they would all come forward, we will ask each of you to make your statements, and then questions will be asked.

I assure you that there will be no time limit. The lights are not going to be turned on. I have been known as "Old Iron Bucket" and as long as you all want to talk, I believe I can sit here.

We will begin with Mr. Halaby, and go down the line with Mr. Boyd, Mr. Helms, and Mr. Engen, in that order, if you will. So, Mr. Halaby?

STATEMENT OF NAJEEB HALABY, CHAIRMAN OF THE BOARD, DULLES ACCESS RAPID TRANSIT COMPANY

Mr. HALABY. Thank you, Mr. Chairman. My name is Najeeb Halaby, McLean, Virginia. I am Chairman of the Board of the Dulles Access Rapid Transit Company, which is a private Virginia corporation planning to construct an extension of Metro to Dulles.

Previously I served as Deputy Assistant Secretary of Defense, and Chairman of Pan American World Airways, and was President Kennedy's FAA Administrator from 1961 to 1965.

Before that I had been Vice Chairman of a commission set up by President Eisenhower to study this same subject, the organization and management of the air space.

You have invited me to testify regarding a bill "for a more effective FAA," and this has offered me the opportunity and obligation to review my testimony before a similar Senate committee in 1966. And with the permission of the Chair, I would like to insert a couple of excerpts for that.

I favored the incorporation of the FAA in the new Department of Transportation, I must say, largely because I thought Mr. Boyd was going to be the Secretary. But also because I thought it could be done with FAA retaining its autonomy.

And the condition many witnesses attached at that time was that the FAA be an autonomous professional organization within the Department.

Why in the Department of Transportation? Because even then, in the battle with the budget bureau, we needed a spokesman, we needed a cabinet member, and we thought that by serving a Secretary of Transportation, we would have an effective, a more effective spokesman than an independent agency had.

The second, you might say, the ideal was that somehow the Department would be able to bring together the various modes of transportation and the resources that they commanded on the highways, the seaways, and in all respects you would then get an integrated transportation network-modes supporting each other in their technical efficiency.

I'm sorry to say that over the years I do not believe those ideals that we sought have been realized. Our hopes, our expectations in supporting the FAA, as part of DOT, have not been realized in practice.

And the structure has been largely, almost entirely dependent upon the personal relationship between the Secretary and the Administrator, rather than one with built-in safeguards to preserve the autonomy and integrity of the Administrator.

The distinct trend has been to give the Secretary all of the authority, and the Administrator all of the responsibility for the modernization of the system and the safety and productivity of its operation.

Whenever authority is divorced from responsibility, accountability is confused and effectiveness is greatly endangered. I therefore support your bill and believe the Administration should support it.

In fact, they should put some of the main provisions into practice even before the legislation is completed. It could be another new beginning. But I do not believe that it will solve some of the deep-seated organizational management problems within parts of the FAA.

I would like to suggest several changes that I think would strengthen the bill. The first one relates to the Deputy Administrator. I firmly believe that he should be a career professional official of the FAA or the Department of Defense.

The average official tenure of the first nine Administrators has been a little over two years, just long enough to learn a little about the job. Fortunately, a number of the Administrators have had a very deep experience in aviation, military and civil, so a few of them had come in running and been able to utilize the time available very well.

But there's very little institutional memory in the FAA, or in the DOT, on civil aviation. The mistakes and successes are easily forgotten in the rotation of Administrators. And the mistakes are being repeated.

Successive Administrators have wiped out experienced professionals and substituted loyalists for the career expert. So it is most important for the Deputy to be a career man or woman, in my judgment.

To a veteran of the struggle for flight safety, the present situation reminds me too much, in some respects, of the national air space crisis in the mid-1950s, when the FAA, then called the CAA, was in the basement of the Department of Commerce, which was headed by a highly partisan Secretary at that time.

President Eisenhower, on advice of Nelson Rockefeller and Generals Quesada and Curtis, and a group of civilians presented a bill to emancipate the agency and the Federal Aviation Act of 1958 was passed by the Congress.

Mid-air disasters propelled that bill, which moved rapidly through the Congress. Funds and the freedom to modernize and manage the air system were provided. A new beginning was possible. And much progress ensued.

That tc me was a precedent and a lesson we should not ignore. Surely we must not wait for that kind of impulse for effective legislation.

The second point I would make, there should be written in whatever safeguards that are permitted under current legislation to depoliticize appointments in the FAA.

I recall vividly many years ago, more than 30 years ago, when I was offered the job in the Eisenhower Administration of CAA Administrator, the Secretary of Commerce asked me, Mr. Halaby, you are a Democrat, are you not?

Yes, sir, I confess. He said, if you had two men applying for a job in the control tower at Washington National Airport, and one was a Republican and one was a Democrat, you would appoint the Republican, would you not?

I said, sir, I would not ask whether he was a Republican or Democrat. And in this business, which is a professional safety-ensuring organization, politics should have no part.

Now I do not pretend to be all that heroic. But the fact is, from time to time, the cabinet Secretary thinks of the FAA as another political component of his administration. And I do not believe that should be encouraged, certainly not facilitated.

You could limit the number of Schedule C appointments to perhaps one or two, and make the rest career appointments and make that ladder worth climbing by competent people.

Third, I think there should be authorized a National Air Space Research and Development Corporation. It could be in the form of a Federal contract research center, whose sole objective would be to provide urgent and comprehensive systems engineering and technical direction of the national air space system program.

I think Administrator Helms put together a great program for the air space. The problem is, there is not a follow-through organization that can attract the technical professional talent through our normal bureaucratic processes.

The Air Force, the Army, the Navy, the DOD, the DOE all have these hired professional cadres of first-class technical men as their technical directors. There is in the Mitre Corporation a part of such an organization, and that might well be the nucleus of such a corporation attached to the FAA in whatever form you decide it should be.

That is the best way I know to attract the technical talent away from the more glamorous programs in space, SDI, et cetera.

This is tough work, and it is not as glamorous and exciting to create software for an air traffic control center as it is for a space defense system. So you have to go outside the bureaucracy to get some of that technical talent.

The fourth thing I would suggest is that the Administrator should be authorized extraordinary powers to reorganize and modernize the FAA procurement system. It certainly should include the authority to make long-range commitments.

Perhaps you should review the progress made under the special procurement legislation which you passed for the Department of Energy in the last administration.

Another step might be to piggyback off the Packard Commission's work in defense acquisition, because it is not so different in the bureaucracy of the FAA than in the Pentagon, and some of the same kind of delays and difficulties for procurement are realized by the Administrator as by the Secretary of Defense.

Fifth, as a pilot who pays about $50 into the airways, airport's trust fund every time I fill up the tanks on my twin-engine airplane, and as a passenger who adds about $100 to a transcontinental round-trip ticket, I want my money in the hands of the person responsible for making the airways and airports safe as possible.

The trustee should be the Administrator. Now, there may be a good fiscal argument for the OMB as trustee, or a secretary in the cabinet as trustee. But my judgment is that only the President and the Congress should be able to overrule the national trustee of air safety, the Administrator.

In closing, and I'm an antique naval aviator like you, Senator McCain, and have had about 54 years in this game of aviation, I just have to say that I know of no one of the Administrators who has not been totally dedicated to leaving that job better than he found it.

Fortunately, we have had men like that in this job. But I have to tell you too that each of us have not left it better than we found it and it may be the system, it may be the secretary involved.

But they deserve much more, those people in the FAA, for whom I have great affection and respect and gratitude, they deserve a decisive, rapidly responsive, well-funded organization and management.

And the public will be well served if the Congress and the President give it to them. Thank you.

Senator FORD. Thank you, Mr. Halaby. You had my attention. Mr. Boyd?

STATEMENT OF ALAN BOYD, CHAIRMAN, AIRBUS INDUSTRIE OF NORTH AMERICA

Mr. BOYD. Thank you, Senator. I am Alan Boyd. I am Chairman of Airbus Industrie of North America.

In prior capacities I was member and Chairman of the Board of the Civil Aeronautics Board, Undersecretary of Commerce for Transportation, and Secretary of Transportation.

I feel a little bit embarrassed being here today, in light of the circumstances which have been alleged so often and clearly in the press of the political interference in the Federal Aviation Administration by elements of the Department of Transportation.

The whole concept of the FAA as a part of the Department was that it was, as Jeeb just outlined, a professional organization which should be run as a professional organization within the context of the Department of Transportation.

I think that has worked quite well over the years, really. I think the current situation is an aberration. And the fact that I think it is an aberration does not really help the situation you are facing.

One of the things that I would urge is that the Congress devote some of its very limited time to more in the way of oversight on the relationships between the DOT and the FAA.

In my tenure as Secretary of Transportation, I am awfully sorry for a whole host of reasons that General McKee is no longer with us. But I think, were he here, he would have testified that there was no interference with him.

General McKee on occasion would grant me an audience.

And that was about the limit of our relationship. But one of the basic things you are talking about here, Senator, in this context is resources, funds.

That is going to continue to be the case. I think you are going down a blind alley, suggesting an independent agency. As I said, I was Chairman of the Civil Aeronautics Board for a period of years.

And I had the opportunity to see how one impacts the then Bureau of the Budget, now the OMB, from two different points of view. One as chairman of an independent agency, and the other was as a member of the cabinet.

I will guarantee you that a cabinet member draws a lot more water than the chairman of any independent agency. And the FAA is always going to be competing for funds unless there is a trust fund which totally covers its requirements.

I frankly doubt that that is going to happen. And that problem is not going to be resolved, in fact I think it may be exacerbated, if the FAA is cast adrift.

There was a rationale for why the FAA should be a part of the Department.

There is certainly a common interest in safety among the modes. And there was a belief that research and training could be of some value from one mode to the other. There was, and is, a definite need for cross-modal coordination, where Federal funds and activities are involved.

One example I can cite is the relationship between airports, access roads, and mass transit. There are today common problems of drug abuse, which I think should be attacked at a Department-wide level.

We had hoped at the time the Department was being created that there would be an opportunity for cross-fertilization as to technologies and materials. And obviously ideas.

Also for the development of statistical data so that at some time in the future it would be possible to have some sense of what the total transportation system in this country is and how it functions.

To what degree that has developed, I can not tell you. We certainly started on that. But I do not know whether it has worked or not. I absolutely deplore the thought of political interference with FAA operations.

I do think, however, that there are policy considerations affecting the FAA which do not belong at the FAA. And I would say an extreme example of that would have been the matter of firing the air traffic controllers on strike.

First of all, I do not think that is something that should be laid on an FAA Administrator. I think it is a matter that is somewhat beyond the responsibility of an FAA Administrator.

But in that context I would suggest to you, Senator, that if you had an FAA Administrator who had a fixed term of years, regardless of what the issue came to be, I think any normal Administrator would be inclined to say, "I am more concerned about the functioning of the system than I am about the impact of whatever may happen as a result of a strike shutting the system down."

"Therefore, I am perfectly willing to commit to some policies to resolve these issues with labor (with the controllers in this case) that could have some very serious precedents for the rest of the government."

Furthermore, since deregulation and the elimination of the Civil Aeronautics Board, there are issues which are coming up because of constraints on the system that are going to have an enormous economic impact on the airlines and the airline passengers in this country.

I do not believe that those issues, which are going to affect the economic health of the airlines directly should be resolved by an FAA Administrator. I do not think that is the role any of us conceive to be that of the FAA Administrator.

I am concerned about the situation of the FAA today, not the FAA so much as the air traffic control system. I am concerned about the problems with the National Air Space plan and the fact that it is running behind time.

I do not share the views of Jeeb or Senator Humphrey that we are on our way to possibly killing a bunch of people because of the problems that exist today. There are other ways to deal with the issue, one of which, of course, is to slow down the system.

That has been done to some degree. But I have not flown an airplane as a pilot since 1968, so I am not current. I can not say I fly back and forth as a pilot. I fly about three days a week as a passenger.

I get unhappy sometimes about delays. But I do not accept for a moment that we have an unsafe system or that we are going to have the crash of 1988 or anything like that. I do not believe it is going to happen. There is no reason it should happen.

We will not have that because we are going to have to put further constraints into the system until the National Air Space plan is further along in place. And that is unfortunate.

But I have heard several witnesses today talk about the bureaucracy at the FAA. Bureaucracy is a word that we have come to use as a pejorative, and I think it is a waste of time to talk about the bureaucracy of the FAA slowing things down, or the bureaucracy here slowing things down.

You have got to have people to do jobs, and when you put people in jobs, you call them bureaucrats. And therefore, by definition, they do not know what they are doing, or they do not have any desire to do a good job.

I disagree with that completely. I do believe that the FAA Administrator should have, in effect, carte blanche to organize and reorganize his agency. But you can only do that so much.

With an agency as large as the FAA, you can not keep trying new things every six months. And I have been frankly concerned with the issue of morale at the FAA. I think there is an awful lot

more that needs to be done in what in industry we would call labor-management relations.

I do not believe the FAA has done as much as it could or should. But I do suggest to you, sir, that the basic problems here, one is procurement, and that, I think, is more or less a government-wide problem.

I think it can be resolved by virtue of working in areas such as Jeeb mentioned, picking up on the Packard group, and on the Department of Energy and some other areas. I think you have got to consider giving long-term authorizations, and then providing the funding.

But this is still going to be a matter of aviation competing with other resources within the government. And I do not see how you are going to get away from that, unless you have some way of creating a trust fund which covers those costs, which I think are going to be very substantial.

I think you need a different approach than a separate agency, Senator.

Senator FORD. Thank you very much, Mr. Boyd. Mr. Helms?

STATEMENT OF J. LYNN HELMS, FORMER ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

Mr. HELMS. My name is J. Lynn Helms. I am a former Administrator of the FAA. And, I try to maintain an active student pilot's license and knowledge of various levels of equipment.

Mr. Chairman, I will address the subject which was presented to me as two basic items for the hearings. One being, should the FAA be separated from the DOT, and in some form or entity create a separate agency.

And the second item being, if the determination is made that the FAA Administrator serve a specific time period, what should it be?

I have chosen to address the subject by certain levels of consideration and applicability. For example, why are the hearings being held?

An appropriate response would seem to be that there is a real or perceived belief that the ATC system needs more capacity and capability, and a possible, I emphasize possible, parallel that safety margins could be reduced if something is not done.

The next level within the hierarchy of decision logic would seem to be that a proposed change has been brought forth, suggesting that privatization, that is forming a government corporation or some other form of organization to run the ATC system, is the way to solve the problem.

To be factually as correct as possible, I believe there have actually been two proposals quite similar to each other, and in the future I will treat them as one and refer to them only as "the proposal."

I will also address the subject of FAA as an independent agency within the government. But now let me back up to the decision making process of logic. To me, when we say the word change, we automatically include two items.

One, the consideration that brings it forth has been established that the present system is not meeting the objectives of either the undertaking or the society.

And secondly, the second element being, of all the possibilities that exist, this proposed configuration, that is the change, has been evaluated and determined to be the proper solution to the problem.

From my personal viewpoint, I concur with the first. The present system is not meeting the societal needs of this country. The second, I'm not quite so certain yet. I am not persuaded yet that a privatized company of its own, is in fact a solution.

This first came before me in 1982, so I have seen the presentation or this idea proffered for about five years and I have studied it now extensively, at least four times. During past months I have heard varied and rather wide ranging views expressed on the proposal.

My personal belief, however, is that the proposal should be publicly debated, nationally discussed, and openly considered. As I said before, I am not yet persuaded it is the proper approach.

I learned long ago that when I close my mind to another's ideas in favor of a pre-determined position, I have abdicated my responsibility to future generations of the traveling public.

Simply put, the public deserves access to our considerations, and I think open and public consideration is in the best interests of all parties. Even those who oppose the proposal. Therefore I commend the Chairman in his opening statement of listening to all parties.

In the instant case, I am pleased that one of the proponents has as much knowledge on the subject of creating government corporations as anyone, certainly far more than me.

My personal respect for that individual encourages, even dictates, that I listen carefully to him. To me, as I said, a change has two fundamental objectives. To meet specific needs for objectives that are not being satisfactorily met, and b) examination of the alternatives shows that this proposed change to be the best solution.

Further, it seems to me that in considering the privatization, there are three fundamental questions. You will note that I use the procedure of a morphological analysis.

Choose A or B, examine A and consider all the options. Examine B and consider all the options. Take each of those and expand them out to the options. And you will eventually find when you take this out, the most likely path develops, because others start to fall out. They have no logic to them.

In this case, the three fundamental questions are, (1) can such a corporation be formed? (2) Why do it? And (3) if so, how should it be done?

I ask myself, what prompted the proposals? Privatization does not in and of itself create any more concrete. It does not put more radars on line. It does not change the operating routine or data needs of the computer. It does not create more full performance level controllers.

It does not do a single thing in and of itself. So then what prompted it? I am beyond the point of examining the fully publicized symptoms and I am looking for the cause. And I submit there are three.

First, the Congress and the administration abdicated their responsibility and commitment to the American public made in 1982 to solicit user fees and use that money for the modernization of the air traffic control system and more effective use of the air space.

Two, OMB fascination with the rules of rigidity that obfuscated the needs of dynamic elements of our economy and society, as compared to static elements coupled with Congressional politics, meddling, and far more oversight in the mistaken belief that they, or more usually their staffs, know more about major system design and installation than the FAA.

And three, micromanagement by the Department of Transportation and some of the above collectively have tied the FAA's hands to the point that they have little authority to correct the situation. The one which they know better than anyone.

Basically, the items I have outlined, have left the FAA, and particularly the Administrator, without the authority to make the necessary decisions for change.

I am left with the conclusion that the proposal put forth is intended for one reason only. And that is to take the ATC system away from them. Take it away from DOT and the Congress and OMB. So therefore they cannot become involved.

Returning to the three items then. Can such a government-owned corporation be formed? This seems relatively easy to adequately answer, and I suspect without too much disagreement.

As embodied in Public Law 248, 79th Congress, Chapter 557 first session, Government Corporations Control Act, Congress and the various administrations since then, have shown their capability and willingness at the respective times to authorize such GOCO, that is government corporations operations, and some three dozen have been formed.

My research stopped at 35 such government corporations already in existence. No doubt many of you have researched the subject deeper than me. But in my discussions I repeatedly hear, "Post Office," "TVA," "Conrail," "FDIC," and others.

Clearly then, our history of legislative response to need proves it can be done. Therefore the question of can it be done becomes rather moot, I believe.

The second question is, why do it? And this of course is the meat of the situation. In fact, this is really the only question to be debated and answered. Both the first and the third can be handled.

But the second one is the true "centroid" of the subject. If the Post Office shuts down for some reason, there are numerous mail and express companies that within minutes would step in to seek the business. Even now they compete openly with them. Dozens of mail and express companies are there on hand.

The Nation's power grid, starting in 1950, was expanded through switching to allow the Nation's electrical power to be switched across the entire East Coast and into the Midwest so that now, if we lost even the entire Buffalo electric power generation station from Niagara Falls, or if we lost half of TVA, the Nation's power-switching grid will allow us to immediately, within minutes, be able to provide electrical power to the users as the demand needs.

In fact, Conrail is labeled as showing how successful such a corporation can be. And if Conrail was struck or shut down, there are thousands of trucking companies, air freight airlines, and other sources and ways to move those goods.

Conrail is labeled quite often as showing how successful such a corporation can be. Even to the point of now bringing large sums into the treasury from its sale.

I encourage the committee to go back and add up how much the taxpayer has poured into it from the start and see how financially successful it has been for the taxpayer. Albeit, the Nation's citizenry and economics may have needed it, at any cost.

But if it or Amtrak were shut down, there are, as I said, hundreds of trucking companies and other ways to move the freight.

If I even consider FDIC, and FSLC will be combined with FDIC, there's no question in my mind, we do not need two separate government corporations providing for insurance and control of banking. Again, a national decision responding to economic and social need will make that decision for us.

This one item, then, alone starts to set the proposal different from all other such government corporations, i.e. there is no alternate for a single air traffic control system.

I repeat, there is no alternative. There will be no alternative. There cannot be two air traffic control systems. The People's Republic of China has now formed a commission to combine their separate military and civilian systems and plan on it being under civilian control.

The last major holdout in the industrial world is France, which still has two systems, but is studying how to get out of it. Again, I say, there is no alternative in the U.S. to a single air traffic control system.

Now, every person is a prisoner of his own experience. I take some comfort in an awareness that came to me some 25 years ago. Do not criticize something if you do not have a recommendation to improve it.

I truly wish to hear more dialogue on this subject of ATC privatization. But I submit I can use the logic of levels and achieve my object of decision making much easier.

Without even attempting to get into all the details, the impact on the Department of Defense handling of highly classified operations, each of these require major decisions within the Federal government, not just the FAA.

Therefore the consideration of privatization is not one of including individual citizens who may be private citizens and with security clearance, but rather the infrastructure, I think was the word I heard earlier, and interfacing with numerous other branches of government.

Again, I find myself appraising the subject by morphological analysis. Take subject A, expand it, subject B, and pull it right on down. Having done this for some 20 years, there is no doubt in my mind it works.

It is quite applicable in forcing one to enter into mental discipline, exercising the discipline on themselves and thinking out the answer. I will use just one fallout example.

We now have a well-developed and rather smooth functioning system for reporting, collecting, and using aviation user fees, that is taxes. Now, let us reduce it one level in the morphological analysis process.

Take fuel as an example. The refineries now know how much aviation fuel they make. And they can make a lump sum payment of these user fees and taxes.

Further, government inspectors and auditors are on-site, preparing reports that are required for other purposes within the government. These refineries, then, pass their billing down through the distributors, through the various companies.

And as these invoices work their way down, they end up at the fixed base operator, who fills the airplane tank and has this user fee collected in his bill. All done automatically, all done by computer, all on a printout.

How will this new corporation interface with that system? If the answer is that we would continue to use that system, then we have merely placed Congress in the position of annually authorizing the Treasury Department to transfer all those funds to this private corporation.

If the answer is that the corporation will set up its own collection and billing and audit and monitoring system, and then we will have succeeded in the supreme achievement of the United States of building a completely parallel bureaucracy infrastructure that will cost tens of millions of dollars more, and not replace the present structure one bit.

Further, it would require more or extended legislation to give that corporation authority to prosecute for violation of Federal law, such new law as yet even to be written. Can we do it?

Yes. But the only beneficiaries will be the fastest growing industry in the United States, law firms. They will love it.

Consider, when the remaining regulatory function of the FAA certified an airplane, inspects it, certifies the crew, et cetera, what is the respective position of the two parties when an airplane crashes?

Who sues who? Who handles the allocation of assignment of usable air space? Safety demands that it be done. Who handles the international flight information and chartographic, that is the maps, the charts, and et cetera programs? Both domestically and internationally?

Who develops and recommends notices of proposed rulemaking and makes final ruling on hazards to air commerce? Who regulates parachute jumping, separating all elements in the same air space, air shows, and certifies air traffic controllers?

It becomes apparent that separating only the ATC system from the FAA is much like trying to unscramble the eggs. The configuration, authority, duties, and functioning of the FAA, was developed over half a century, a period of painful experience, and lessons hard learned, but one that produced the finest and safest air traffic control system in the world.

Your time is not well spent in reading more words or hearing me talk more about the difficulties. I believe it more productive for the committee to address ways to cure the problem.

I return to the three items believed by me to be the problem. Compared to the legislative undertaking to handle all the above, and much, much more, it would seem the will of the Congress could be adequately tested and more rapidly expressed by much

simpler legislative action and a number of other ways, each drastically less than the GOCO, or government company proposal.

First, separate the FAA from DOT. Remove the trust fund from the unified budget. Establish one oversight committee in each house of Congress. Write the implementing language so that funds could not be appropriate and/or used, if not in the authorizing bill. And include the provision that no geographic sites can be added by the Congress.

Hearings this year alone showed, from the time the bill left authorizations until clearing appropriations, Members of Congress added some 30 geographic locations, directing the FAA to install certain equipment, do specific things, and actions which the FAA did not request, did not need, and did not include funds for in their request.

These millions of dollars must be absorbed in the requested funding level. And hence, vitally needed modernization equipment for safety and expansion of the capacity, those elements truly needed, had to be eliminated or deferred.

Or, descending to the second level, separate the FAA from DOT, and then combine it with one agency which has a similar highly-technical function, one that includes sufficient technical knowledge in its management structure, its philosophy of operation, so as to understand, examine, and question the FAA plans and management of the system.

That is, combine it with NASA. The same agenda caveats as above should be included. But large savings could be achieved in combining the administrative support establishment. And further, greater use could be made of each's research and vast communications facilities.

Since I have discussed three of them, that is the proposed privatization, separating the FAA from the DOT by itself, and finally separating it and combining it with NASA, the fourth and final one is the easiest of all, and the one I favor.

Leave FAA in DOT. But separate the trust fund from the unified budget, appropriate direct to FAA, and legislate that FAA make the decisions on all elements of the ATC system, et cetera.

Take DOT out of the budget, the expenditure, the project approval, and the personnel decision loop. This would isolate the FAA from the staff micromanagement at DOT and make direct and instant use of the vast historical and technical capability that exists.

Effectiveness and the implementation of the FAA objectives are a function of the operating policies and the people involved.

Again, I say every person is a prisoner of his own experience. My experience in the Federal government was, that relates to the above, the most ideal possible. Both Secretary Lewis and I had for many years been managers of large-scale endeavors.

Both had been chief executive officers with the full breadth of experience that can only be derived from having fulfilled that rule and sat in that chair. That is, managing institutions with thousands of employees.

Such experience allowed us respectively to immediately start to use the staff and facilities, rather than use the office title to learn how.

Further, from our private CEO roles, he knew that he was the boss, I knew that he was the boss, and he knew that I knew he was the boss. So within about one hour, we quickly understood each other and set about to make the system effective.

From our prior CEO roles, we both knew how to use the staff instead of letting the staff use us. This allowed us to very quickly come to the meeting, make decisions, and move out to implement our respective undertakings, and do it on a personal relationship and not through a staff.

Equally, he had far, far more experience in the science of politics, how it works, than I could ever have. And I was not particularly interested in it.

Second, he accepted the fact that I had a little bit of knowledge about technology and airplanes and flying. In my case the prior 35 years had been spent in that field.

Basically what I am suggesting is that the relationship between the two, both of whom have deep managerial experience, the Administrator being technically competent and the Secretary having the necessary acumen in the political field, is the ideal relationship.

In my case, it could not have worked better. In fact, I must say working for Secretary Lewis was just plain fun. With that background, then, we move to the final one. How do we, in fact, make it happen and leave it within DOT?

As I have indicated, the overriding priority is to give the Administrator separate autonomy and the authority to make his decisions. We are saddled with requirements to establish emergency procedures in an unknown area and unpredictable area, with an unknown number of passengers.

We are looking to the future for things to do and accomplish, even though we are not quite sure what that future is. I believe we must re-examine our criteria and content for many items.

But basically, it comes down to this. It can be generally stated that the objectives are common to us all, and not unidentified.

One, maximum safety in the system. Two, increased capacity and efficiency. Three, access to all users on a controlled and equitable basis. And four, minimum cost and operational impact on all users.

Finally, I would ask the committee members to expand their thinking to place the ATC system and the FAA in its perspective. That system was developed over 50 or more years ago by thousands of dedicated people.

It came about because of just two things. (One) Improved technology, and (two), this Nation's cultural desire for ever improved human and social benefit.

Coal mining, farming, steel making, medicine, you name it, this Nation was built and will continue to grow on the combination of those two elements. Technology, and an ever improving desire for ever improving social capability.

The ATC system is not mystical or unique. It too will be responsive to those elements in the future.

Just as my two predecessors here have noted, in the 1940s, in the late 1950s when, "we were jammed up in the air, 'the combination of technology, i.e. radar and then computers, together with the

desire for human benefit, opened up the system again, it was no longer jammed up.

There is absolutely no doubt in my mind that this Nation has the capability to both solve the present ATC system problems, and accommodate the very certain much further growth in aviation commerce.

What we are examining here today is if it has the will. The period we are now in was directly forecasted in January of 1982, when the National Air Space system plan was presented to the Congress, noting that by 1987 eight identified air fields would be at saturation. And new equipment, airport capacity, and procedures must be initiated then and at once to prepare for that situation.

The Congress responded both positively and immediately. In the last three or four years, that will by the Administration and the Congress has waned. And the modernization program is vastly underfunded, and considerably behind schedule.

Although I must note, the earlier speaker, the Senator's comment that it was eight years behind schedule, it is very difficult for me to see how, as a program that has only been underway five years, can be eight years behind schedule.

With that database now before me, I can only conclude the proposed government corporation is not the answer. In fact, it will surely serve as a reason to delay until the new organization gets a chance to look the situation over, be sure it is what they want to do.

That is, such a corporate decision will in fact cause further delay, not cure the delay. I believe our traveling citizenry wants action now, that it can be initiated now, and the benefits can start to accrue before this year is out.

That same public, albeit it grudgingly, has agreed to pay for it. I believe we should all collectively start out and talk about the future and solve the problem.

I thank you, Mr. Chairman, and I apologize for such a lengthy statement.

Senator FORD. Thank you. Your apology is accepted.

Admiral Engen?

STATEMENT OF ADM. DONALD D. ENGEN, FORMER ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

Admiral ENGEN. Mr. Chairman, it is a great pleasure to appear before your committee and to discuss this, a topic of national importance.

In the interests of time, I am going to submit by statement for the record and I will make a very short opening comment. We can get on to questions and answers then.

Senator FORD. Your statement will be included in the record.

Admiral ENGEN. Thank you, sir. I, like my colleagues here at the table, have been around for some time in this great aviation system of ours. I think we represent a lot of experience.

There is one immutable fact in aviation. Aviation is always in a state of change. There are widely disparate populations, ranging from the recreational balloonist who flies his or her balloon, to so-

phisticated airline operators, with billions of dollars of equipment, to the passenger.

Pressures develop rapidly in aviation. Issues need to be dealt with promptly. It is a fact that United States aviation leads the world in development, in regulation, in operation and in size of effort and complexity.

Economic deregulation of the airlines, enacted by Congress in 1978, has brought additional change to all, user and regulator alike.

The pressure that has developed from economic deregulation of the airlines has been the basic motivator for many changes that have been made over the past five or six years.

The purpose of this hearing is to examine the FAA relationship to the Executive and legislative bodies, and to the flying public. I would caution all who have the power to do so to consider the proper frame of reference, and then bring about whatever change is needed for the proper reasons, but not for the wrong reasons.

I believe that in order to be more responsive, the FAA should be making its own decisions with respect to need for people and equipment. This could be done by the FAA under whatever organizational relationship it functions, provided the FAA was operating under its own budget.

The FAA can be run on the trust fund, in my view, and can be run well, at no cost to those who do not fly. Such a fact should be recognized very soon, in my mind, and I hope in time to set the tone for the post-1987 legislation which is being discussed at this very time.

The FAA is the pacemaker for the heartbeat of air commerce. It is a highly-technical agency of great complexity. It should be treated gently, because you would not want to lose the fine, operational edge that is needed and provided by that agency. But there is no doubt in my mind that the agency could be more responsive to those who use our national air space system. How do you make it more responsive is the question.

After 20 years in DOT, indications point to the need for changing departmental organizational relationships in some fashion. Many have proposed that the FAA be a separate agency. The attractiveness of that is the reduction of management layering, and such simplification should improve responsiveness of the agency. The need to compete for a many modal Secretary's time or approval would be removed. In my view the concept of returning the FAA to a stand-alone agency has merit.

It has also been proposed, and I will address this very shortly, that another organizational alternative could be to combine aviation and space responsibilities into a department of air and space.

Such a department would have FAA and NASA as modal administrations. One can easily argue that there is little demarcation between air and space, with respect to the operation of vehicles.

Certification should be a key function in both, and regulations can be common. The atmosphere contains aircraft as we know them today. The exo-atmosphere will be the operating area of the aircraft, and the space vehicles of tomorrow. But all aircraft and manned space vehicles must return to earth through the atmosphere, if they carry people.

There is a need today to begin addressing this interface between air and space, even if such a move of placing FAA and NASA under a single Secretary of Air and Space is considered or not. It is past time to formalize our space operations in a more efficient way. And it is the right time to examine the operating and regulatory roles of NASA.

I would propose a commission chartered by Congress to examine the merit of moving into the 21st century with the Federal air and space agencies under a single department to give emphasis to the progress that we must make in the future.

I am convinced that an agency can function under any organizational relationship. It depends upon the people. Again, the question has to be, how best can it function? The test, in my mind, is how can the Federal Aviation Agency be most responsive to its constituency, the people who operate and fly as owner, crew, and passenger?

The Aviation Safety Commission is examining this. Your committee is examining this. I hope that your efforts will enable us to move toward a stronger, better, and safer aviation system as a result of these deliberations. I thank you, sir.

[The statement follows:]

STATEMENT OF DONALD D. ENGEN

FORMER ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION

Mr Chairman, it is a pleasure to appear before your committee and to discuss a topic of national importance, the method by which civil aviation is administered in the United States.

You have proposed an independent Federal Aviation Administration in your Bill S. 1600, subsequently referred to Committee. When you introduced the legislation you made reference to a current "crisis in confidence" in air transportation. In my view you have correctly identified a perception that exists and which incorrectly has generated a very strong public concern about aviation safety. I will address in overview fashion what has occured in the past 10 years in our aviation system as background to my comments on the issue before your committee today.

When congress enacted the Airline Deregulation Act in 1978 the forces for change in air commerce were set in motion. There were also other events that had strong effect on how this change was brought about. The demise of the CAB in December 1984 and events leading to that milestone were also key issues. The forces of a free market brought a certain instability to the the previously regulated airline industry and yet produced good changes for the airline passenger, and, indeed, others who rely on air commerce.

In another aviation area, general aviation manufacturing went into a slump after 1979 from which it has not yet recovered. In the intervening years the numbers of General Aviation airplanes flying in the national air space have remained relatively constant as opposed to 15% annual increases for each year over the five years preceding 1979.

In 1981 there was an air traffic control strike that buffeted air commerce. The very fiber of our aviation system was challenged. Airline operators and all pilots banded together with the FAA and with support of the military services kept our skyways open. In doing so, voluntary constraints to meet the challenge of the time masked the growing market need for traffic increase in the burgeoning economy. Airlines tested and found new ways to schedule in order to be more cost effective. By the time of anticipated recovery of the Air Traffic Service, lower fares, the hubbing concept of scheduling and the growing needs of a mobile society to solve its time-distance problem all came together to provide air traffic levels never seen before. This resulted in those air traffic control challenges that are attendant to unrestrained growth.

The airlines themselves were surprised by the increase in passenger volume. Already in the throes of organization and management changes, from mergers and acquisitions in the highly competitive atmosphere of airline deregulation, the airlines failed to keep pace with consumer needs. The hubbing schedule concept was good but it had adverse side effects. Airline operation is time critical; any delay at a hub can drive further delays. Passenger agents could not cope. Airport terminals were jammed. Luggage was lost. Flights were cancelled or overbooked. People ended up spending nights where they had not planned. Tempers flared.

The FAA's Air Traffic System, accomodating to the rapid increase in air traffic and new airline scheduling concepts, became over burdened. The already too few major airports in our major cities could not accomodate to the rapid growth in the number of take offs and landings. The available concrete upon which to park was not sufficient. Delays due to air traffic volume were also generated. But, there was a major accomodation to the growth in air traffic. Annual capacity demand on the system increased by 20% within a period of two years. It is important to recognize that safety was maintained and even improved. That is a success story, a tribute to the airlines for their good safety procedures and to the FAA for its air traffic control system management.

The CAB's demise in December, 1984 saw three functions transfer to the DOT: consumer issues, the Essential Air Service program, and international air route negotiation. Consumer issues lay dormant for a time, masked by air transport events. The DOT, with a modicum of people devoted to consumer issues, basically let consumer complaints lay idle without redress until 1987. This lack of response led to consumer feelings that nothing that they said made any difference. They saw little redress from the government nor the airlines. The clamor rose.

Deregulation, in addition to its impact on passengers and the airlines, has had a great impact upon the FAA. While striving to accomodate to the dynamic change, the FAA has done so with fewer people and occasionally not enough money. At the same time the FAA embarked on the National Airspace System Plan - the largest single civil program since the Apollo moon project. Some have said that this plan is eight years behind its schedule. There is no way for a ten year plan to be eight years behind after only five years of implementation? It is not! But, there have been some schedule slippages, primarily for technical reasons. These have resulted because of budget reasons as well, and that is one of the reasons why we are here today.

The point of this long prologue was to set in context the forces at work in the aviation system of the United States which impact the consumer, the operator and the regulator. Consumer issues have become inextricably intertwined with safety issues in the mind of the public, and there is a growing desire to do something. I am here to say let's not do the wrong thing for the wrong reasons. There is a need to sort safety issues from service issues. That should be done before we alter the governing rules of the finest civil airspace in the world.

The purpose of this hearing is to examine the FAA, its functions and relationship to the Executive and Legislative bodies and to the flying public. I would caution all who consider the topic here to set the proper frame of reference and then bring about whatever change is needed for the proper reasons not for the wrong reasons.

I believe that in order to be more responsive the FAA should be making its own decisions with respect to need for people and equipment. This could be done by the FAA under whatever organizational relationship it functions, provided the FAA was operating under its own budget. The Aviation

Trust Fund, given proper safeguards and oversight could provide those funds. The Aviation Trust Fund is a user fee fund and should be spent on those things for which it was levied. The FAA can be run on the Trust Fund and be run well - at no cost to those who do not fly. Such a fact should be recognized very soon, in time to set the tone for the post 1987 legislation.

Your letter of invitation to testify asked that I comment on the current relationship between the FAA and the DOT. I believe the relationship is good, but not in the business sense. I view that question as, "can the organization of DOT\FAA be improved?" The FAA is the pacemaker for the heart beat of air commerce. It is a highly technical agency of great complexity. It should be treated gently, because you would not want to lose the fine operational edge that is needed and provided. But, there is no doubt in my mind that the agency could be more responsive to those who use our airspace system. How do you make it more responsive, is the question.

After 20 years, all indications point to the need for changing departmental organizational relationships in some fashion. Many have proposed that the FAA be a separate agency. The attractiveness of that is the reduction of management layering. Such simplification should improve responsiveness of the agency. The importance of the political interface would be reduced. The need to compete for a many-modal Secretary's time or approval would be removed. In my view, the concept of returning the FAA to a stand alone agency has great merit.

Frequently, a modal Administrator in the DOT finds that a policy issue must get in line for approval with several other policy issues from other modal administrations. As a result, unneeded delay occurs, at least unneeded in the mind of the FAA. When that policy issue has political overtones or when it has fiscal ramification the speed of approval is reduced significantly.

The review process for approval can be long and laborious, not that it is designed that way, but, when you must vie for approval in competition with other modes of transport the system frequently becomes cumbersome; e.g. at times such as the selling of CONRAIL, Highway Trust Fund policy decisions, or promotion of a new safety program for highways or Coast Guard/Treasury drug interdiction major policy decisions. At those times you can't help but to get in line for attention or approval in major aviation matters that have been specified as being of Secretarial interest. A certain amount of "process" is good but too much denies flexibility and responsiveness.

The DOT/FAA relationship is understood within those organizations. Attitudes have ranged from full cooperation to combativeness since the time that FAA was placed under the DOT. Over time, there has been a transfer of people between DOT and FAA. This has brought better understanding of the technical side of the FAA on DOT's part and better understanding of transportation policy vis a vis aviation on the FAA's part. But once below the top levels of DOT/FAA management differing interpretations of responsibility can and do occur. The Agency, historically, has resisted tinkering by the DOT. When Administrations or Secretarys change, bright energetic people are brought into the government in important DOT staff positions. They look for ways to earn their keep and do bright and energetic things.

In the case of the DOT these people were without an aviation background. It takes time to learn about the myriad of technical aviation issues. While learning, being at the seat of power - or at the super staff level, they cause untold anguish and delay to the professional aviation staff of the FAA. Once these individuals feel that they have "learned about aviation," they begin to challenge the aviation operating process or take up specific causes. These frequently are high visibility or high dollar issues. The FAA staff responds on a priority basis to these individuals because they function in the Secretary's name and at her direction.

Secretaries and Administrators can solve contentious issues promptly and do; but, untold effort is made and time taken to respond to initiatives from the Department Staff level by the FAA staff. This may sound minor but when the effort to improve the operation of the airspace system is diverted to staff issues such as these, everyone loses.

The problem is that FAA is a highly technical agency operating in real time on matters vital to air safety. We should keep the lines of authority just as short as we possibly can. The FAA Act did this. The subsequent move into the Department of Transportation has diffused responsibility, leaving room for organizational mischief and less clear lines of authority in operational matters.

There is tendency on the part of the DOT to want to steer the FAA "log." When that occurs rather than helping - it hinders, particularly when DOT staff individuals try to do the job whose responsibility lies technically and administratively within the FAA.

One area in which the two organizations frequently become cross threaded is the budget. Budget oriented people believe that you should do only what you have the dollars for - and that may be correct if you don't want to go to jail. But, the emphasis is on the wrong syllable. An operating agency should plan for what is needed and fight for the dollars to pay for it. Those two philosophies frequently clash and particularly between OMB/DOT/FAA. The FAA should be in the position of, and have the responsibility for, doing what is needed without having some arcane approval process miring down timeliness and operational need.

Another organizational alternative could be to combine aviation and space responsibilities into a Department of Air and Space. This should not be done summarily but as a follow-on move to the establishment of a separate Federal Aviation Administration.

Such a Department would have FAA and NASA as modal Administrations. There are many management and goal commonalities between the two agencies. NASA Langley, Ames and Lewis foster airplane design, human factors in aviation and airplane engine development. Dryden High Speed Flight Station helps develop new airplanes and airplane design. These currently interface with the FAA's large airplane and small airplane, helicopter and engine certification directorates as well as its Headquarters. Aviation Safety is enhanced through NASA's efforts, under FAA contract, to provide the Aviation Safety Reporting System. Human factors in crew performance are joint agency concerns. NASA's space role is well documented, but I would add that it too should be reviewed and rejuvenated.

One can easily argue that there is little demarcation between air and space with respect to the operation of vehicles. Certification should be a key function in both and regulations can be common. The atmosphere contains aircraft as we know them today. The exoatmosphere will be the operating area of the aircraft and space vehicles of tomorrow, but all aircraft and manned space vehicles must return to earth through the atmosphere if they carry people.

There is a need today to begin addressing this interface between air and space even if such a move as placing FAA and NASA under a single Secretary of Air and Space is considered or not. It is past time to formalize our space operations in a more efficient way, and it is the right time to examine the operating and regulatory roles of NASA.

I would propose a commission chartered by Congress to examine the merit of moving into the 21st century with Federal Air and Space Agencies under a single Department to give emphasis to the progress that we must make in the future.

I would also caution you to think very carefully before you remove from the FAA the responsibility to enhance aviation as defined in the FAA Act, and particularly caution you in moving that responsibility to DOT or DOC. Civil aviation has progressed as far as it has over the past 50 years because all technical and rule making responsibility has resided in the CAA/FAA. Aviation knowledge and expertise resides in the agency, not in the DOT or DOC. You would do a diservice to the future of aviation by fragmenting responsibility. Also, you may set in motion needless debilitating administrative turf battles.

I am convinced that an agency can function under any organizational relationship. Again, the question has to be how best can it function? The test, in my mind, is how can the aviation agency be most responsive to its constituency - the people who operate and fly either as crew or passenger? The Aviation Safety Commission is examining this. Your Committee is examining this. I hope that your efforts will enable us to move on to a stronger, better and safer aviation system as a result of those deliberations.

In summation, I believe the Aviation Trust Fund should be used as it was intended, solely to build, upgrade and operate the aviation system. Secondly, I believe the FAA would be more effective as an independent agency. Finally, I believe the combining of the FAA and NASA into a Department of Air and Space should be given serious consideration in order to move our nation forward to meet the new challenges of the 21st century.

Senator FORD. Thank you very much, Admiral. Senator McCain, I think, and those who are listening intently, that we have found a good mix here today among these four fine gentlemen. We can begin to glean from their statements the direction that we need to proceed.

If it is all right with you, I will ask a question or two of each one of the witnesses, and then you may have your time. Then I will start again.

Mr. Halaby, I was impressed very much by your statement. You probably have experience here that we might be able to build upon. You were the last FAA Administrator to serve prior to the agency being incorporated into DOT.

Can you compare for us your experiences in that position, both as the Administrator of FAA as a single entity in DOT, and see if you can give us some kind of a comparison in addition to that to the place that the Administrator finds himself in today?

Or we find ourselves in, the traveling public, consumer, with that Administrator of FAA. Please, sir.

Mr. HALABY. I'm rather weak on how it feels to be an Administrator under a Secretary of Transportation, and I know you will discount what I have to say by that lack of experience.

As an independent agency head, serving President Kennedy and President Johnson, I have felt I could carry water, contrary to what Alan said, about "only a cabinet officer can carry water." As Chairman of the CAB, that was probably his experience at the Budget Bureau and with the President, but not mine at FAA. On at least four different occasions, I appealed to the President over an allocation by the Budget Bureau. I recall vividly flying down to President Johnson's ranch one day, with fire in my belly and blue in the eyes, to reclaim about $100 million, and I got about $50 million.

I do not know whether the Secretary of Transportation does any better than a .500 batting average over these several years or not. I would doubt it.

So I think an independent agency head, particularly with a President who is prepared and able to delegate authority, and who is willing for his agency head to deal directly with the Congressional leaders and the OMB head, he can get the necessary funds.

I think the big difference would be that, as Alan says, if the trust fund has enough money in it for development and operating and maintenance, that is a whole new ball game. That can be isolated to a large extent from the normal budgetary controls.

And he can be held responsible for both the capital expenditures and the operating and maintenance out of that trust fund, if in fact he is the trustee of that trust fund. Subject, of course, to the President, and to the appropriations process of the Congress.

So I think it is possible for an independent agency head to make decisions, to have them stick, and to, over a four year period, carry through. Unfortunately, we have not yet had, to my knowledge, an Administrator who wants to make a full career of the FAA.

We have had some FBI directors who have not only wanted to make a career, but have made careers of it. We have had Federal Reserve Board chairmen who prepared to make a career of the job, at least a 10-year career.

It may be that we need to develop that kind of individual in our culture, that he thinks that his fulfillment is to do a good job over 10 years and see programs into place, rather than just start programs and leave the place.

Now, with respect to the FAA Administrator under the Secretary, I have only been an observer. And it seems to me it worked under Mr. Boyd and General McKee. It certainly worked under Mr. Lewis and Mr. Helms.

But in the other cases, it had what I consider less than successful operation. And so I worry that it is a personal relationship. I would like to see it an institutional relationship, where you have got an independent agency as unpolitical as it can be made.

Neither President Kennedy nor President Johnson ever forced an appointee on me. He offered, each of them offered an appointee, and sometimes they were former political officials.

But never said, you have got to take this man. Never once did they say, "fire that guy" because he made a terrible boo-boo in Atlanta or San Francisco or someplace. And I think that is the way it should work and can work. In my judgment, the personal relationship between the two is not quite the answer.

You should build in, and I notice in this bill a number of things you have built in, to depoliticize it, and to make it on a more permanent steady basis than just how well those two people get along.

By the way, I was very alarmed to hear what Senator Humphrey was saying about the number of deaths that were going to ensue. I do not think that is an imminent threat. I would not wave the bloody shirt here.

I think the system is working because the delay factor, rather than the efficiency factor, is paramount now. I know of no controller who says, we want to risk danger rather than delay.

It is always delay. And sometimes there is a highly conservative impulse toward delay. If there is any doubt, it is delay. Of course, there are mistakes.

Senator FORD. Let me extend my question just a little bit from your remarks, if I may.

When you were Administrator, did you have some person at the White House that looked after the White House's interest in FAA? Or did you have a liaison from the White House that you would work with without necessarily going directly to the President, as you had to that one time?

Mr. HALABY. There was not a single point of contact or liaison.

Having worked on the Harding Commission to take the CAA out of the Commerce Department, I had a little inside look before the President asked me to take the job.

And I went to see him before accepting his very great offer, and said, Mr. President, I want to be your civilian aviation advisor as well as your FAA Administrator, and I just have one request to make. I would like to be a member of the White House mess.

Senator FORD. That means being asked for lunch, is that correct?

Mr. HALABY. Yes, sir. It was not only good food at a low price, but it enabled me to deal with all of the White House people, from the National Security Advisor to the counselor, and to those men who dealt with other departments on behalf of FAA. So I was uniquely privileged in that position.

Senator FORD. With repect to the lengthening of the term of the Administrator, would that have any attraction?

This is a job we can do. That way, that person will have time to implement some programs and know that he or she is going to be there a while to see those efforts completed.

Mr. HALABY. I think it would. There is no guarantee. For example, when I took the job on, I said I will stay four years.

The last year or so was difficult for me, but I did stay those four years. I think if the term is for seven years, and the President gets someone who wants to do the job, and he wants him to do the job, he should be asked to take it for seven years.

Now, that does not mean that circumstances will not develop where by he leaves before seven years. But it should be a career job. We must build from within that great cadre of men and women competent people who want that job to be a seven year job. The cap of their career.

Senator FORD. Now, you talked about the Deputy Administrator a moment ago.

We are out searching now, I guess, for a Deputy Administrator. And it seems to me that within the organization that we have had acting Administrators from within FAA, your regional directors from wherever they might be.

It seems to me that there is no incentive within FAA that there is promotion, there is long-time employment, that there is some ability to move up. So do I take it from you now that from within FAA, your Deputy Administrator would be chosen? That would give some impetus, that maybe there is an area of advancement.

Mr. HALABY. Exactly. That is one way you can create a career administrator, by giving him that Deputy job from the career ranks.

At the time I was Administrator, one of our biggest challenges was referred to by Mr. Helms. It was to integrate the separate Defense Department air traffic control system and the CAA air traffic control system.

And that was achieved, and one of the key figures in that was my Deputy Administrator, who was a lieutenant general in the Air Force, a senior, highly-qualified communications man, Harold Grant, a superb manager of programs and people.

You remember, the moment there is a national emergency, and certainly in war, this agency transfers from DOT to DOD. And therefore, you always have to recognize that the biggest customer, and the most important customer, of your air traffic services will be the Department of Defense.

So there should be always in my judgment a high-ranking official of the DOD in the FAA structure, to keep that confidence and mutual respect ever lively and solid.

Senator FORD. Thank you, Mr. Halaby. You have been a mighty good witness today.

Mr. Boyd, let me, you mentioned in your statement that the Administrator should have full authority to organize the agency with full approval of expenditures et cetera.

Do you see that happening there now? Does the Administrator, in your opinion, have the kind of authority you think he ought to be empowered with?

Mr. BOYD. I think the authority was essentially contained in the organic act creating the Department of Transportation.

And we both have been in Washington long enough to know that you can thwart any sort of a process you want to in this town, if you have the will. And I think it may have been thwarted.

And I would not say that I think it is absolutely sufficient today. I think there may be some needs for some changes. But the original concept was that the FAA Administrator run the FAA and manage the FAA.

And that comprehended organizing the FAA along the lines that the Administrator felt would provide the most effective air traffic control certification, training, and so forth. That was the clear intention that is back in the legislative history of the basic act.

And these gentlemen on my left are much better qualified than am I to say whether that has been carried out. But that was certainly the intention. And if it has not been done, then I think there would be some need to shore up the legislation.

I would be inclined to think that Jeeb's idea about a more or less permanent civil service Deputy Administrator makes an awful lot of sense. I should not say civil service, because I think General Grant, to whom he was referring, was a superb Deputy, coming out of the Air Force.

I think that has a lot of value. I am not advocating that there be a military man in the number two position. But I think there is some value to considering that.

I do think there is an important need for an institutional memory. However, I would hope we do not get carried away with the idea that the FAA is not staffed today with people who are highly competent and highly motivated, even though their chances of becoming Deputy Administrator or Administrator are probably nil.

I do not accept that. I think that there is a marvelous staff of people at the FAA today. I happen to know a number of them at the Associate Administrator level, which I think, I believe is career.

And these are men who hold highly-responsible positions and I think they carry them out with great confidence, and I think they have a lot of self-respect and satisfaction from the positions they have achieved in the FAA.

I do not think we have to say, we are going to have to make this a civil service operation right through the Deputy Administrator or to the Administrator.

And I would say on the seven year term, Mr. Chairman, if you want to create an aviation czar, that is the way to do it. I do not know whether you want that.

Senator FORD. What I want is a professional organization that has some stability and they are not fearful of the top person leaving every two or three years.

I want an organization that has the respect of the traveling public, which knows that they are doing the best job they possibly can in order to give them air safety for that 8 percent tax that they are paying on each ticket. They also must know that it is an agency that, in time of danger, can be transferred in the best interests of the defense of this country.

Now that may be imagery. But imagery, when you get out here and begin to look at reality, we have got a lot of problems. I have seen sweat, blood, and tears almost over at FAA, because they know what needs to be done, they want to do it, and they are using band-aids to keep it from falling apart.

Now, I am trying not to overreact to what I see. I am trying to be very careful about it. That is the reason I have you gentlemen here today in our first hearing. Down in west Kentucky we have a saying, we do not want to overrun the rabbit.

What I am trying not to do here is to get too excited and try to move too far too quick, without trying to make the best judgment I can. Stability of that agency, in my opinion, is a paramount factor.

We are not giving to FAA the number of personnel that is needed in maintenance and other arenas. And we are not doing the right things. We are not giving them the kind of expertise to look at the NAS plan, to put it together.

I have got that kind of feeling. How do we get there? That is what I am looking at. I think we are beginning to get some ideas this afternoon.

Mr. BOYD. I think, I agree with everything you said. In terms of competence, my recollection is, I may have missed somebody, but everybody who has been an FAA Administrator, I think, has been competent.

I do not know of any who I thought were incompetent.

Senator FORD. I do not have any problem with that. But you ought to give them the tools to work with.

Mr. BOYD. And that is where the critical issue is. As long as you are going to have to compete for funds, it is going to be a difficult proposition.

And I tell you out of the bottom of my heart, making this organization independent is not going to get it any more funds. I guarantee. It is not going to happen.

Senator FORD. Yes, but, let me say this to you. As I recall, and I am not sure if my figures are correct, I will correct the record if I am wrong, but I believe Congress has appropriated $1.2 billion more than the Administration has requested, as it relates to FAA over the last six years.

Mr. BOYD. Mr. Chairman, can I just tell you, I am a yellow dog Democrat, and we can not argue this at all. I am with you, 100 percent.

Senator FORD. Well, being Democrat or Republican, I go back to Mr. Halaby, because obviously he is a Johnson Democrat, and that tells me something. I have been to the ranch too.

But when he wants competent people, he did not ask them whether they were Democrat or Republican. That is where I am coming from. I am trying to be as non-partisan here as I possibly can be so I can get an agency that will be non-partisan.

If you have $6 billion surplus in the trust fund, even with the reauthorization bill, there is some money that needs to be used.

Mr. BOYD. I can not understand why the trust funds are not being utilized.

Senator FORD. Well, I will tell you. It is balancing the budget, at the expense of air safety. That is exactly what we are doing. And it ought to be off-budget and ought to be spent.

Mr. HALABY. But Alan, you say that if the trust fund is big enough, the money will be available for the independent Administrator. Right?

Mr. BOYD. Should be. Yes, absolutely. Independent or part of the Administration, it does not really matter.

The question is, are the funds unconstrained. That is the real issue. How do you get unconstrained funds into the system?

Senator FORD. Well, you have to have two-thirds vote and a dry pen, is what I think you have to have. Because when you have got a third of the votes and a wet pen, you control this thing pretty well. Let me get to Mr. Helms for a couple of questions. I am sorry, but I should speed this up.

Mr. HELMS, I believe the FAA NAS plan was initiated during your term as Administrator. Is that correct?

Mr. HELMS. Yes, that is correct.

Senator FORD. And you played a key role in the development and promotion of the NAS plan. What role did DOT play in implementation of that plan?

Mr. HELMS. At the time, I had completed the system analysis and laid it out for the senior group at FAA. What I wanted to do and during the six months that it took us to do it, was to be in regular contact with Secretary Lewis, so that he knew what I was doing.

As it became evident that we were going to be able to configure a plan, I started outlining with him the roles that I would like for him to undertake with me in presenting it actively to Congress. Because I just did not know the individual Members of Congress as well.

Once we had completed it, I had laid out a plan for him that I personally would give the technical briefing, so that there was no question in the minds of the public that I had made the major technical decisions.

They were not made by bureaucrats, and I would like to comment on that again later, and DOT then undertook with me the role of presenting the plan to the Congress, with me doing the primary technical effort, secondary political, and Secretary Lewis doing primary political and secondary technical.

With the exception of the Secretary himself, there was no effort conducted, to my knowledge, that is, no significant effort by DOT.

Senator FORD. In your opinion, why have there been slippages in the implementation of the NAS plan, and what could have been done to keep it on schedule?

Mr. HELMS. Well, I noted the earlier comment that over the last five or six years the Congress had voted an excess of funds over that requested.

My reading of the budget would not support that. And I do not mean to take exception to the Chairman's statement, it is just——

Senator FORD. It is capital versus F&E.

Mr. HELMS. I see.

I think primarily it was originated and caused by two things. The rigidity at OMB, applying the rules to all elements of the government in equal roles, irrespective of whether it was a dynamic part of the economy and society, such as the FAA and the dynamic growth of aviation, as compared to the static elements of our government.

Forced reductions in the budgets, and most of this occurred after I left, to the degree below that what was anticipated during the time period that we laid out the plan.

And second, the actions by the committees, primarily the staff in Congress, who felt that they could do a better job in managing this system development and bringing it forward than the FAA professionals, resulted in a combination of starting bit by bit to constrain the capability both in money and in programming, specifically of decisions on the amount that you would produce in what timeframe for the very subsystems that go into the FAA, and into the NAS plan.

The combination of those two, then, led to the thing starting to feed on itself, and the first thing we knew we were $2 billion behind, and the program got behind. And that is the reason primarily I believe that we are behind.

Incidentally, I should acknowledge there were some of the programs, subsystems that did not come through on time, just like, on Apollo.

Senator FORD. What did DOT do to help?

Mr. HELMS. Well, during the time period that I was there, I really did not have that much difficulty, Mr. Chairman, because when the time the budgets were being formulated, after the DOT went through it, if I had any questions about it I went directly to Secretary Lewis, and he and I reached agreement, and then he and I would either go together or I would go and see Mr. Stockman.

And in one case we ended up with Vice President Bush, and the decision to support me came forward. So I did not have the kind of budgetary problems during my tenure there that have come about now.

Incidentally, Mr. Boyd and Mr. Halaby touched on two key things, which when you put them together tells quite a story. Mr. Boyd noted that he was convinced that most of the FAA people were very dedicated people, and wanted to do what is right. I could not find words to support that any further.

Mr. Halaby noted that the word bureaucrat some way has crept into the lexicon of government employees. I assure you every major corporation has the same thing. Hospitals, academia, all large institutions have staff functions which could be identified with the term bureaucrat.

So I do not think that we do ourselves particular service by using that as a crutch, or saying that we have internal within the FAA bureaucrats that want to hold things up.

We have some people perhaps on the staffs on some of the levels that want to exercise their authority. But that is the way you get around it, by having good line management. Secretary Lewis would not let the staffs hold me up on what I wanted to do.

Senator FORD. So the staff you were referring to is at the Department, and not in the Congress.

Mr. HELMS. No, I did not mean it in that generic sense.

Senator FORD. I wanted to draw a thick line between——

Mr. HELMS. I am sure you would like to, Mr. Chairman, but unfortunately some of the staffs in Congress do become a little bit active in trying to make decisions for the Administrator.

Senator FORD. Oh, I did not know that.

I have always found the Administrators I have dealt with to be very fair and willing to sit down to talk. It has been a good experience for me.

Admiral Engen, you stated your support for the creation of an independent FAA, or a combination with NASA to bring in the expertise. Do you believe if we have an independent FAA that the administrator of this agency would have enough access to the President, have enough access to OMB, given the fact that it would not be a cabinet level position?

Admiral ENGEN. Mr. Chairman, I do indeed. I feel that there are other examples within the executive government, which are parallels which show that the administrator would have the necessary power, if you will, to carry forth his voice.

He has got the power of Congress behind him, he has got the power of the people using the system, if he can use that power. I would just like to say, I am very proud of the people in the FAA. I think that we have got good people, good leaders who spend their lives honing their skills and are dedicated, tried and true. I certainly support Mr. Halaby's recommendation about having a professional Deputy.

I think that has great merit. And it also gives a career path to somebody in the FAA that leads to the very top. In time, we may even want to consider the administrator. Who knows. But the people who are capable of doing that are standing in the wings, sir, serving in a very, very capable fashion.

Secondly, I think the process should be examined. Any organization as it grows older develops a process. Process today is one of the things that is chewing up the organization. For instance, you need almost 31 copies of a proposed rule for OST before you can go forward with the staffing of this rule.

You must now go to the OST for approval by the source selection official, who makes the decision for who will win a competition for something that is to be developed. It is very important that we look at this process.

And whenever you look at organizations I think you need to cut away at process, whatever you do, whether the agency stays under the Department, or whether it becomes a separate agency. I think we need to look at the process, and we need to cut that down. We need to get back to good business relationships.

Senator FORD. How many stops would a budget request make before it was incorporated in the President's budget that is presented to Congress?

Admiral ENGEN. It takes over two years. Let us take air traffic controllers, because somebody mentioned them earlier.

You need to start dealing with the number of air traffic controllers you need at the end of fiscal year 1988 in May 1986, believe it or not. You begin considering those numbers that early. That is the process that is involved.

Specifically, you asked how many budget reviews do you have? The annual budget is constantly under review for a period of two years. Either by the FAA, the Department, the OMB, or the Congress. It is a very iterative process.

Senator FORD. Am I correct in saying that once you, as Administrator, develop a budget that you think would be adequate for the following fiscal year, or the next fiscal year, where does it go then?

Does it go then to an assigned group in the Secretary's office for scrutiny? And then go to the Secretary for scrutiny, and then it goes to OMB and they tell you what you can have and what you cannot have?

And then it ultimately comes to Congress. Is that basically what you have to do?

Admiral ENGEN. Basically, yes, sir. And I can walk through it very quickly, just in shorthand.

But in May, the agency structures its budget for the fiscal year after the next fiscal year. In May this year we structured the budget for fiscal year 1989. And we then would decide within the agency the funding levels that would support the equipment and the people needed.

We would send it to the Department. The Department would work with us. It is done in concert. And I must say that recently the Department has supported the FAA a great deal in developing its budget. The process has been working harmoniously. But the process is too long.

Then in December, the Secretary and the Administrator would go to OMB and argue down to the bottom line. Then, of course, the process goes on and joins the cycle being reviewed through Congress.

Senator FORD. Thank you, Admiral. I am sorry I took so long, but Senator McCain?

Senator MCCAIN. Thank you, Mr. Chairman. And Mr. Chairman, I appreciate the efforts that the subcommittee and you are making to try and bring some order out of what is obvious chaos in the system as we know it today.

I also think it is entirely appropriate that this hearing lead off with the witnesses that we have here. I would imagine there is more experience, years of experience here before us than the witnesses would like to recollect.

They have provided at least this Member with some very important information. And I would also look forward in future hearings to the testimony of the Administration on your legislation.

I would like to also state, and I think the witnesses are in general agreement, that we do have an enormous problem with spending this $5.6 billion.

If we do not spend it, and if we do not spend it soon, we face a national disgrace which may turn into a national tragedy. I do not share the view of many Americans that the system is unsafe at this time.

I appreciate what Mr. Halaby and I believe the other witnesses have stated. But I think it is very clear that there is a critical need not only for the completion of the NAS plan but also for new airports and runways.

I do not see how the system can be fixed simply with advanced radars and improvements in the air traffic control system if we do not have places for the aircraft to land. We find that very true across the country, but especially in the Southwest, as we experience the dynamic growth that I am sure you are aware of.

I believe that the witnesses here add some significant input when they testify that it is not the safety of the system here that is the problem as much as it is our ability to handle the increasing demands on the consumer.

Mr. Boyd stated that we perhaps should slow down the system. And I think that we may be forced to that. But I would hate to see us forced into a slowing down of the situation when there is $5.6 billion that should be spent and should have been spent some time ago.

I have been to neither ranch, Mr. Chairman. But I would suggest that if we wish to point the finger, the blame, rests on all branches, including the Congress, as we go through our charade in seeking to convince the American people that we are making an honest effort at balancing the budget and reducing the deficit.

So I hope that you and I and Senator Kassebaum and Senator Exon can convince our colleagues that the worst way to balance the budget is to continue to restrain the expenditures of that aviation trust fund. And I look forward to working with you on that effort.

Mr. Boyd, I appreciated your viewpoint, since you were the Secretary rather than the Administrator. And I would ask, is it really viable to expect the Department of Transportation to remain a cabinet post, if you remove the aviation responsibility from it?

Mr. BOYD. I can only say at the time we were trying to establish the Department, Senator, it was the clear view of the Administration that if the FAA was not a part of the Department, it really made little sense to try to create a Department.

Senator MCCAIN. I think that is something that we should consider as we look at the issue of whether to separate the FAA from the Department of Transportation.

It seems to me an argument could be made that you would also downgrade the other parts of the Department of Transportation into either independent agencies or subcabinet posts. Would you?

Mr. BOYD. Well, the fact, again I say, with the exception of a trust fund which covers all of the requirements for FAA capital and operation, the fact of the matter is that you have got to deal with this competition for funds among the various modes of transportation.

And I am an advocate of aviation in every sense of the word. But the fact of the matter is that, always subject to the issue of the separate trust fund, there have got to be some national priorities established, nominally through the budget process, as to what portions of the public interest are covered this year, next year, and the year after, at what rate.

I think that it makes an awful lot of sense to try to pull that together, at least in one Department. To try to make some sense out of that in one Department. And it may be that aviation does not get the shake it needs. It may be that urban mass transit does not get the shake it needs, or so forth. The highway system.

But I do not see how, subject again to the trust fund, you can avoid being in that situation, and there is an overriding public interest, I think, in having a transportation system that is not just an aviation transportation system, but a safe highway system, a

safe railway system, a safe waterway system, as well as a safe and growing airway system.

And I think somebody has got to try to bring those things together. And one of the reasons for trying to create a Department was to say, let us sort of pull this stuff together, and then we can make some judgments on priorities, depending on the needs, the pressures, and so forth.

And we go to the Congress, and we say, ladies and gentlemen, these are the views that we have as to what the priorities ought to be. You have the authorizing authority, you have the appropriation authority.

You authorize the programs, you appropriate the money. So you are the final say. But at least you have got somebody who has pulled this together for the first time with the creation of the Department of Transportation.

Senator MCCAIN. Mr. Halaby, both Mr. Helms and Admiral Engen have suggested that one viable solution might be to combine NASA and the FAA.

I think at least at first glance that appears to be a reasonable solution for the reasons given by both individuals. However, right now NASA does not exactly have a good name with the American people, as you know.

There have been significant failures and shakeups in management, and I wonder whether you feel that solution would be viable not only from a theoretical standpoint, but also from the practical standpoint, when we are talking about the real world and the image that NASA has today with the American public.

Mr. HALABY. Well, sir, I think partly for that reason, but more the enormous amount of controversy and difficulty of engineering that into place.

I would guess it would take another administration in the future to give that the consideration that it deserves, and that Congress would have many different points of view on it.

So I would guess that you are talking about something that might occur in 3 to 5 years. And in pure logic, I do not know whether this is morphological logic or not, Lynn, but in pure logic it would make sense to get the extraordinary technological talents of the NASA scientists and engineers, along with the operational talents of the FAA and their preoccupation in both camps with safety, et cetera, and use all of those labs at Moffett Field, Ames AB and Langley down in Virginia for a common air space use.

And it was talked about, by the way, considered, I think, rather lightly back about 20 years ago. Now, it seems to me, we have something approaching a crisis in managing what resources are available, that portion of the NAS that is coming into place, and doing it right away within the next year, to give the men and women who have to administer that the maximum, sharpest, most flexible tools that we can give them.

Instead of waiting for the ideal, I would think that either within the DOT, measures be taken right away that move toward the independent agency, or you simply say, we are not going to wait for you to do it, we are going to dictate it.

It is that kind of urgency that I think is at hand. I can not help but get on a little hobby horse of mine. When I heard Alan say

that the integration of the surface ways with the airways, it is kind of interesting to see what happened under the DOT with our two airports here, National and Dulles.

The two airports and, I might add, the rail link between metro and Dulles were neglected for the last 20 years. And of that 20 years, the last 10 the Secretary of Transportation could have, if it was at high enough priority in his or her scheme of things, could have started modernizing those airports and providing access between the two of them and the capital, et cetera.

Well, that is what we idealized 20 years ago. We thought that would happen. We would get an integrated sort of h-airway system, highway and airway system. Well, it has not occurred at airports around the country.

So even though that was a good rationale, it has occurred very rarely. So I guess I would say, let us give the Administrator the trust fund, let us put the cost on the beneficiaries, the users.

I can see the Defense Department contributing X hundred million dollars, because they use the system. I can see the passengers and the users lay some more taxes on them, so long as they know it is coming back in the form of facilities and safety.

I think that is the way to go and to do it in the next year, not 3 years from now when we might get a superagency.

Senator McCain. Thank you.

Admiral Engen, Mr. Helms stated that he believes that FAA has been the victim of micro management by Congress, the Department of Transportation and OMB.

Do you agree with that statement?

Admiral Engen. I think there is a certain amount of micro management in all of government, Senator McCain. Yes, the FAA has on occasion been micro managed by all three entities that you just named.

I do not want to point the finger at any one, but it is a fact of life that when [the] dollars are available, or are being apportioned out, that there are going to be people interested, and micro management follows.

May I interject one thing?

Senator McCain. Yes. Yes, you may.

Admiral Engen. I firmly believe that the FAA can be run on the Aviation Trust Fund. I believe that it can be done in a businesslike fashion. There does need to be oversight. There does need to be accountability, authority and responsibility go together but it can be done.

Senator McCain. I appreciate very much your opening statement, and I did not have a chance to read your full statement but perhaps you could provide for the record some more recommendations as to how the FAA could best function.

I thank you, Mr. Chairman. It has been a very, I think, educational experience for this member to hear these expert witnesses.

Senator Ford. I will say to you, Senator, you have been a valuable member of this subcommittee and this full committee because of your background and experience, and we will be leaning on you more and more on the time.

Senator Exon.

Senator Exon. Mr. Chairman, thank you very much.

Mr. Halaby, Mr. Boyd, Mr. Helms and Admiral Engen, thanks for coming here today. I congratulate the Chairman not only for holding this hearing but for getting the talent at this table today to give us advice and help.

I have been listening very intently to what you have been saying and the recommendations that you have been making. I did note two or three things. There has been some pretty broad discussion, but there is some reference to how many people have been at the LBJ Ranch and how many people have been at the other ranch.

One of the reasons that more people have been to the LBJ Ranch, we have never had a near miss out there over the LBJ Ranch; therefore, it is a more attractive place to go, which is another way of saying that I think the recent incident involving the President's helicopter out there points up the very heightened public information or seeking such information about how safe or dangerous the skies are.

I think that we all generally agree that the skies and the way we administer them in the United States are the best in any place in the world, but I think at the same time we all recognize that they should and could be better. That is why we are doing such things as considering the legislation that we are basically talking about today.

Let me get into two things. I am not very much impressed with the idea of combining the FAA and NASA for the reason it seems to me that they are two separate distinct agencies.

I think you have to have some dreamers in NASA. I do not want dreamers in the Federal Aviation Administration. I want good, tough, stern administrators to keep their eye on the ball of maintaining a very fundamental industry going full speed ahead, as safely as possible

So I would have to be a little more sold on that than some of the talks I have heard about that previously and some of the suggestions I have heard made here today.

Second is the question of the FAA itself and whether or not we should separate it out as Senator Ford's bill suggests. There are obviously, with the talents and experiences that each of you have had, some problems that we have today in the FAA. Some of them, I would think, a major portion of them, and I agree with you, go back to the fact we have not made proper use of the funds that we have in the Aviation Trust Fund.

We have also talked about the micro management or mini management or other types of management created by either the Department of Transportation or through committees like this one or subcommittees of the Congress of the United States.

Let me ask just a general question. I do not expect you to expand on it a great deal as I want to move right along, but in your view and your experience, each and every one of you, of the difficulties that we have in the FAA today and looking forward to correcting them, I just do not believe moving things, per se, is going to correct an awful lot until we understand and try to appreciate what the problems are.

Of the problems that each of you know about in the FAA today, do you think that they are primarily from external lack of direction and desire, or are they internal in the superstructure or bu-

reaucracy, or call it what you will, Mr. Helms, or are they a combination of both?

I have worked with at least three of you sitting at that table since I have been on this subcommittee, and I think you have all done an excellent job. I know you by reputation Mr. Halaby.

What I am trying to get at is, while I think FAA is a very good agency, are you all very much satisfied that the present management, top bureaucracy, call it what you will, of the FAA is one that could always be improved upon but is operating pretty efficiently and has in the past?

Essentially what I am saying is: Where are you coming from? Where are the problems?

Mr. HALABY. To me, the most enduring problem relating to resources is the system engineering and technical direction and the capacity to buy the equipment promptly and get it in place. It is something that I believe every FAA administrator has had to deal with.

I have to say I think Lynn Helms dealt with it as well or better than any of us, but he did not get to follow through and put it into place. He left behind as good a team as there has been in the FAA in recent times, and yet it is not able to get the system engineered and applied that will meet the demand.

I believe that the administration does not need a private ATC system. I cannot go for that excorporation of the ATC system into a private enterprise, but I do believe he needs one of these Federal contract research corporations at his left hand.

One way to do it would be to take that portion of the Mitre Corporation, a nonprofit corporation, and give that plus what else he needs and let that be his system engineering technical direction. It will be under contract for three years and roll over three years. That is the way the Air Force space and missile program was really pushed forward successfully with the aid of the Aero-space Corporation. I think that would supply what I know I could not put in place and keep in place, and I have not seen anyone have it in place and working for more than a year or so.

So I would urge that as part of this bill there be created such a national air space research and development corporation with the role of following technology into practice.

Senator EXON. Along that line, before the rest of you respond, let me ask how much validity there is to the claim and the statement that you have all heard from time to time that nothing is very well accepted or given serious consideration within the top echelon of the FAA unless it is created, started, dreamed up and manufactured in the bureaucracy of the FAA?

The claim has been made that the FAA is such an entrenched bureaucracy. I do not use that in the negative term, Mr. Helms, but it is such an entrenched bureaucracy that it resents other people coming along with something that they have not thought of.

Have you had any experience with that, Mr. Boyd?

Mr. BOYD. No, sir. I have no recent experience with that, and I am totally incompetent to give you any judgments in that area whatsoever.

Senator EXON. Mr. Helms, I know you have.

Mr. HELMS. Yes, Senator, and I do not think I could agree with that. I would cite just two or three examples to put additional credibility in my answer.

When I came there, the agency had studied a collision avoidance system for, I do not know, 15 years, 10 or 20, and as I started to take on the job of conceiving a system design for the National Air Space System Plan, there was—I would not say shock, maybe not even awe, but there were eyebrows raised within in the agency when, after doing the analysis, I noted for them that the collision avoidance system decision had to be made first.

Now, people say why do you have to make that first, because TLAS is in the airborne system. But when you go back through the system design, the design at that time which was BCAS, Beacon Collision Avoidance System, and what was called ATARS, and I will not go through all the acronyms, but it was an extremely complex system which had an airborne system which was connected through a data link to a ground system. This had a massive computer of one even number, an even larger software which on the ground computed the relative position of two different aircraft and then transmitted that back up through the air and told them about each other, it reflected this thing you are talking about the, I will say, bureaucratic view within FAA that air traffic control should be on the ground.

I took the position that: first, it must be independent of the ground; second, it must be able to operate independent of any ground facilities in the U.S. so that it could operate just as well over the North Atlantic or over in Tanganyika; and third, I could not accept the premise that there was no input from the flight deck. Then I noted for them that once you make that decision that you are going to remove the collision avoidance system from a requirement of the ground, you can now start to size the computer for the new air traffic control system; hence, the new computer could be defined.

I looked at 13 different configurations of those, narrowed it to 11, then nine and finally made a decision on distributed architecture.

Once you have now sized the computer, since you no longer have to worry about this massive computation for collision avoidance, you can now start to size out the communication system of what is going to be required to communicate all this data around the country. I will not go through the iterations. I will just point out I had no difficulty when I sat down with them in reviewing it, and this was hours on hours three days a week, grinding through it, starting out shortly after lunch and ending at 8 or 9 at night.

The people were there, they were dedicated, and I must say within 60 days once that group found out that I was serious and I was going in to get into the details, I had marvelous cooperation. Those people did a fine a job in going back and digging out the data. I was constantly looking for more data, and they did a marvelous job for me.

So I think I would say, yes, there may be that thought that unless it comes from below in the bureaucracy we are not going to do it, but I find that a good strong, competent leader can put his imprimatur on that organization, and I have no hesitance about it. I made the decisions on the computer and the others on the

modems, on the SR–9 radar, on the AWOS, the ASRS, and there is no question in my mind, you can make such an impact, Senator.

Senator EXON. Thank you.

Admiral ENGEN. Senator?

Senator EXON. What did you find, Admiral Engen, when you took over from these people that had been evidently set up straight in their chairs?

Those are my words and not yours, but I think you did that, Mr. Helms, and I think it was needed.

What did you find when you got there, and how did you allude to carry on with them?

Admiral ENGEN. I found the agency to be tremendously responsive. I found that the agency had embarked upon the National Air Space System Plan.

I found also that as we moved through the budget process there was some whittling down. There was some give and take here. There was a little bit of delay put into the system there. There were some technological delays, but I found everybody willing to listen to the outside.

I placed my own imprint on the agency in decreeing that TCAS will be resolved and the operational standards will be set within six months, and we did that. I went out and personally got terminal Doppler weather radar approved. I got the ability to see taxiing aircraft approved in our major airports, and these were things that were not really inside the agency at the time. I found people were responsive to those initiatives.

The FAA is a one-of-a-kind agency. There is no other agency like it in the world. It is more than equipment, though. It is people operating. It is inspectors who must inspect airlines, must inspect engines, airframes.

It is pilots. Every single pilot of the 700,000 pilots in the United States is registered with the FAA, and the privilege of flying is administered by the FAA.

It is attorneys who regulate. It is inspectors who go out and make people abide by the rules and regulations.

When you have a regulatory body such as the FAA, you begin to build up a feeling that they are the Feds, I think people resent the cops, if you will, a little bit. So some of that feeling, of "not invented here," may come from the fact that the FAA is a regulatory body. We must abide by the regulations if we are going to have the safety that you expect and we in the FAA must provide.

Senator EXON. I am sure you want to put the air traffic controllers in that group, too. They are a very integral and key part, and I think they are an outstanding group of people.

Admiral ENGEN. Absolutely.

Senator EXON. I have no other questions. I just want to say I share the concerns of my Chairman and Senator McCain and others that if we are going to do this we must step in the right direction.

You mentioned Doppler radar. The main holdup on Doppler radar today may be manufacturing facilities, but a part of that is the fact that we have not expended the money that we have in the trust fund to get the Doppler radar in, and that is the tragedy.

I think Senators McCain and Ford and others of us have been concerned about it for a long, long time. When we have the next big accident, as we are going to have someday, then there is going to be a hue and cry going up, why?

I think whatever we do, we have to start shaking that money loose and maybe sunsetting the money that comes in through the tax or whatever you want to call it for each ticket. Maybe we should sunset that if it is not spent, or maybe we should take it away from the budget and tie it to adjusting that each and every year or each and every five years on the basis of how much money we are not going to put in the trust fund but how much money we are going to expend on a budgeted basis. If you need more, then we raise the user fees to pay for it.

Thank you very much, Mr. Chairman.

Mr. HELMS. Senator, I would like to make one addition if I may, very briefly.

There is going to be a secondary fallout of what the Senator just said. Because we did not spend that money in accordance with what the master plan was, we have now left the present administrator with no choice but to now come and request money to buy old equipment because we have a gap.

He did not create the gap. Collectively, I will say we, the aviation community, the administration, the Congress did. So now we have placed this gentleman in the embarrassing position of having to come in and request money to buy old radar, old ILS precision equipment, and we will still have to buy the new equipment later on.

Senator EXON. Thank you. Good point.

Thank you, Mr. Chairman.

Senator FORD. One final question. We are reauthorizing the trust fund. For what length of time should that be reauthorized? Five years?

Admiral ENGEN. Five years, yes, sir.

Senator FORD. All of you say five. You would not take three, would you?

Admiral ENGEN. It is an inadequate time for the Administrator to do his planning. If you are going to buy things, Senator, you need to have a long-term program, and five years is a good length of time.

Senator FORD. Okay, I am going to be overruled here, and I yield to your good judgment and experience.

I was just hoping that at some point if we go for three and we have to reauthorize it, then we would go ahead and have this particular bill and off budget in place so we really could get after FAA and do the kind of job that I wish I had you four fellows to run.

I understand, and I will not debate that. I asked the question and got the answer. I do not necessarily agree with you, but I accept it. How is that?

It is not quite 4:30. We assigned two and a half hours for this, and I cannot think of a better two and a half hours with four finer gentlemen and you, too, Senator Exon. We are delighted to have you.

Thank you all very much.

[Whereupon, at 4:28 p.m., the hearing adjourned.]

FAA INDEPENDENT ESTABLISHMENT ACT OF 1987

WEDNESDAY, OCTOBER 7, 1987

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
SUBCOMMITTEE ON AVIATION,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:35 a.m. in room SR-253, Russell Senate Office Building, Hon. Wendell Ford (chairman of the subcommittee) presiding.

OPENING STATEMENT BY SENATOR FORD

Senator FORD. Good morning, ladies and gentlemen. This is the second of the Aviation Subcommittee hearings on legislation to establish the Federal Aviation Administration as an independent agency.

It follows on what I thought was a very successful hearing last month, in which we heard from four gentlemen who had countless years of experience in running both the FAA and the Department of Transportation. While no consensus was reached, all conveyed excellent ideas, worthy of our consideration.

I continue to believe that the idea of making the FAA an independent agency is the best way to resolve the problems that have confronted the FAA in recent years. While the relationship between DOT and the FAA was established in 1966 on the belief that it would be beneficial, it has over time resulted in a situation where the Department has felt the need to run the FAA for the political benefit of the Secretary.

This has neither helped the aviation industry nor has it helped the air traveler. Most importantly, it has hindered the FAA's efforts to ensure aviation safety.

The FAA is a technical agency that is highly professional. It is an agency that should be exempt from the whims of political decisionmaking. And very simply, my objective is to ensure that that professionalism is not allowed to deteriorate any further.

I am pleased that the response to this legislation has been so positive. To date, there we eleven cosponsors to S. 1600, including my good friend on the subcommittee Senator Kassebaum. I appreciate their support and want to work closely with each in shaping our final bill.

This hearing will allow us to begin to hear from the leaders of today's aviation community. The first witness today will be the

Chairman of the National Transportation Safety Board, Jim Burnett.

We will then hear from three of the most respected individuals in the industry, including the heads of the airline industry, general aviation pilots, and general aviation manufacturers.

I look forward to hearing from each of them this morning, and I certainly appreciate their attendance.

Senator Kasten do you have a statement?

OPENING STATEMENT BY SENATOR KASTEN

Senator KASTEN. Thank you, Mr. Chairman. I congratulate you on this series of hearings on S. 1600, your bill to establish an indepdent FAA free from the constraints of the DOT. In essence we will be re-establishing as an independent agency the functions that have been seen to be part of the overall transportation policy function of the Department of Transportation. I am as bothered by the various political priorities which ahve impeded the FAA as my colleagues are. The evidence of this has become evident to me in hearings before this committee and the Transportation Subcommittee of the Appropriations Committee on which I also serve.

I commend the chairman and cosponsors for viewing this legislation as a starting point for refiguring the FAA, with these hearings, helping to establish what does, or does not, have to be done relative to the different functions of the FAA to improve its ability to meet its primary responsibility of aviation safety. A more responsive environment in which the FAA will operate is a proper and necessary goal for this legislative effort.

There are numerous proposals for addressing the needs of the aviation community and its various constituencies. We will hear several today. It is obvious that just about everyone concerned with the system agrees something must be done.

Do we establish a Federal corporation, an independent agency or enhance the FAA's position within the Department of Transportation? Should the air traffic control function be administered on its own as a part of the solution?

It is a most important effort that we are undertaking, and obviously one which may dictate the structure and policy to be followed in the next two decades, just as the present arrangement of the FAA within the DOT has been with us for the last 21 years.

I look forward to working with you, Mr. Chairman, and Senator Kassebaum of this subcommittee, and our other colleagues on this important issue. Thank you, Mr. Chairman.

Senator FORD. So without further ado, Chairman Burnett, if you would come forward, we would be glad to hear your testimony and hopefully be able to ask you a question or two as it relates to S. 1600.

STATEMENT OF HON. JAMES E. BURNETT, CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD

Mr. BURNETT. Mr. Chairman, I want to thank you for the opportunity to be here today to discuss S. 1600, a bill to create an independent Federal Aviation Administration. This committee's long-

standing concern with the safe, efficient operation of our Nation's aviation transportation system is well known and well documented.

We all agree that there are problems within the system, and you are to be commended for providing the forum to seek solutions.

The Safety Board was requested in 1979 to comment on legislation to create an independent FAA. At that time, the board responded with no substantive comment, suggesting that the location and status of the FAA would have no effect upon the relationship between the Safety Board and the FAA.

While I agree that the day to day relationship would not be affected, I have some concerns that the FAA's status as an independent agency, removed from national transportation policy concerns, might actually reduce, rather than increase, the Safety Board's efforts to achieve real world safety accomplishments.

Before I elaborate on this point, I want to make it clear that the Board has not taken a position on S. 1600. The opinions expressed here are my own.

The charges of delay and undue interference on the part of the Office of the Secretary have been with us since the placement of the FAA within the Department of Transportation in 1967. I have no doubt that there are instances when the DOT has slowed down the process.

You have received testimony from other witnesses and will hear from more as your hearings continue on the problems associated with this relationship. It is not my intent to belittle these concerns.

On the other hand, from where I view it the DOT has on occasion provided the pressure needed to get significant Safety Board recommendations implemented, recommendations that, based on FAA resistance, would be languishing still without the Secretary's interference.

As I have stated to this committee in the past, I believe the Safety Board sets the national transportation safety agenda. It is an agenda that takes into account not only the issues that need to be addressed, but the environment in which improvements must be accomplished.

The FAA is a technical organization whose mission and goals necessarily are more narrowly focused. Its national constituency encompasses the aviation industry and its special interests.

The DOT must be concerned with overall public policy considerations.

My six years at the Board during the tenures of two Secretaries of Transportation and now three FAA administrators have convinced me that the frustration of DOT delays and interference in FAA decisionmaking are vastly outweighed by the significant safety achievements we have been able to realize through a Cabinet-level entity more susceptible to public pressure and more able, I think, to get things done when they have to be done within the context of the governmental system.

I am concerned that an independent FAA is likely to focus on more narrow issues that the Safety Board might consider low priority, while under the DOT it is forced to place safety considerations higher than it would do so on its own. In other words, an independent FAA might be better for the industry, but I believe it would be worse for the airline passengers.

Let me give you an example. The Safety Board has for many years pushed for improved and upgraded cockpit voice recorders and flight data recorders to assist in the determination of probable cause in our accident investigations.

The Board has been concerned, for one thing, about the number of accidents involving complex fixed-wing multiengine aircraft in air taxi and corporate executive service in which some circumstances of the accident remain unknown. For instance, in the space of 20 months from August 25, 1985, to March the 4, 1987, the commuter air carrier industry experienced four fatal accidents in which 40 passengers and crew lost their lives and the aircraft were destroyed.

Investigative efforts into crew and aircraft performance were severely limited by the lack of cockpit and flight data recorder information. Although these investigative efforts produced a number of significant safety recommendations, based on sound evidence of potentially dangerous conditions and practices, the specific crew actions, inactions, equipment failures, environmental conditions, or combinations thereof that caused the accidents could not be identified.

And yet, over the years we have fought an uphill battle to convince the FAA of the importance of upgrading recorder standards, despite the fact that the International Civil Aviation Organization membership voted overwhelmingly to do so.

Further, it was only because of the intervention of the Secretary that the FAA, as lead agency in an inter-agency working group, did not cause the United States Government to outright oppose ICAO's efforts to upgrade the standards.

Following concentrated Safety Board pressure on the FAA, a notice of proposed rulemaking finally was issued in January of 1985 for more stringent flight data recorder regulations. However, this effort fell far short of Board recommendations and of the ICAO standards.

In March of 1987, the Secretary of Transportation, after admittedly an undue delay, announced a rulemaking requirement on CVR's and FDR's that, while still short of our recommendations, will considerably enhance the Board's capabilities to collect vital information needed to determine probable cause of accidents and prevent their recurrence.

The Board will continue to push for complete implementation of its recommendations in this regard, and I believe the Secretary's active support will be a significant factor in realizing this goal.

I would also caution the committee not to lose sight of one of the original purposes of the creation of the Department of Transportation—to provide a vehicle to establish a unified, coordinated national transportation policy.

Action to remove the FAA from the Department of Transportation would be contrary to the perceived need to provide a coordinated policy, including the desire to facilitate technology transfer among all the transportation modes.

At the very least, the potential effects on national transportation policy of removal of the FAA must be thoroughly examined before such action is taken.

Let me give you an example of the positive effect that coordinated policy can have, both on the safety and technology transfer. For many years, FAA regulations prohibited the use of child safety seats during takeoff and landing, even those which met DOT safety standards. Use of these devices also was prohibited by most of the airlines, which insisted that child safety seats be treated as baggage and stowed during flight.

Parents who wished to provide protection for their small children during air travel were prohibited from doing so. As an alternative, parents had to either place their small children in adult lap belts or hold them in their arms—actions that offer no protection and can be fatal to their children.

As far back as 1979, the Safety Board recommended that the FAA expedite research with a view toward early rulemaking on effective restraint for infants and small children. In 1982, the FAA issued a technical standard order that required child safety seats to meet different standards in dynamic tests than those already imposed by the DOT's other agency, the National Highway Traffic Safety Administration.

Thus, in order to obtain the TSO approval that would allow their child safety seats to be used aboard aircraft, safety seat manufacturers would have had to conduct a whole new series of costly tests, all of which were less stringent than the tests the seats had already passed to obtain NHTSA approval.

Since most of these manufacturers were at that time small enterprises, most felt they would have to forego seeking TSO approval, thus denying parents the ability to provide their small children adequate protection in survivable crashes.

In 1983, the Safety Board recommended to the FAA that it essentially adopt the NHTSA standards, which it eventually did, but only after the Secretary intervened and imposed a solution that permitted the use of a mutually acceptable child safety seat in both automobiles and aircraft.

There is no doubt in my mind that an independent FAA today would still be resisting this obvious solution and insisting on its own separate set of standards for child safety seats on aircraft.

Another issue I think that needs coordinated treatment by the Department of Transportation is the issue of alcohol and drug abuse and the research that needs to go into what drugs, both illicit and prescription, need to be banned from use by operators, and the kind of coordinated policy we need to have as far as use of highway violation information and who can be approved to fly or to operate other types of vehicles or vessels, which of course Allen Boyd mentioned when he was testifying before this committee.

Mr. Chairman, I think the discussion you provoked is healthy and constructive. I am confident that this committee will not take precipitous action on any legislative proposals without addressing the problems and pitfalls as well as the benefits.

And I would be pleased to respond to your questions.

Senator FORD. Thank you, Mr. Chairman.

I now have two colleagues that have joined us. Would either one of you have an opening statement that you would like to make, Senator Stevens, Senator McCain?

Senator STEVENS. No, thank you.

Senator MCCAIN. No, thank you, Mr. Chairman.

Senator FORD. Fine. Then we will proceed then with the questioning of Chairman Burnett.

Mr. Burnett, you have outlined a number of instances in which the FAA acted on National Transportation Safety Board recommendations only after prompting by DOT or the Secretary of Transportation

Are you aware of any instances where the reverse was true?

Mr. BURNETT. I cannot specifically think of any that I know of in which the FAA has proposed taking action and then DOT has not approved it. I think there are probably many instances in which the approval process has taken some time at DOT.

But what is hard for me to know is how much of that is because of the DOT and how much of it is because of the Office of Management and Budget. Obviously, the DOT, the way I understand the working of the system, has to take the responsibility. They have to hold the bag for OMB while it completes its review processes, and that can sometimes be very lengthy itself.

So the DOT then has to accept that static. If the FAA were an independent agency and were not made independent regulatorily from the OMB, I confess I am not sure exactly what the import of the proposed legislation is in that regard, but those delays that are attributable to OMB would still be there.

Senator FORD. I am greatly concerned that in the current environment the FAA is unable to do its job of ensuring aviation safety. If we were not to establish the independent FAA, how could we more effectively insulate the FAA from political forces that interfere with it?

You said in your tenure you have already worked with three FAA administrators. There must be some reason that they leave the office, some because they cannot get things done, because it takes too long; they will recommend some things that have to go through various and sundry stumbling blocks and, I guess they just throw up their hands.

So can you give me some ideas how we could more effectively insulate the FAA from the political forces that interfere with it?

Mr. BURNETT. Well, let me say that I think that also contained in your legislation is a seven-year term for an FAA administrator.

Senator FORD. That is correct.

Mr. BURNETT. I think that needs to be looked at very carefully. I think that that may have some hope. Now, sometimes terms have been provided by Congress for various positions and it does not actually work out that way in practical effect. The person, the incumbent, serves at the pleasure of the President even though he has a term, because he is not going to continue to stay there when he does not have presidential backing.

So you never know what the impact of that will be. But it certainly—there is a need to have greater continuity of the FAA administrator. I think one of the reasons for that need is in order to enable the administrator to get control of his own bureaucracy, which takes a period of time and is particularly acute when you have a bureaucracy as large as the FAA.

I would be more comfortable with that arrangement if it were within the context of the Department than I would be independent.

And the reason I think that it concerns me is that being truly independent—and we know this, being an independent agency, and I think Alan Boyd referred to the same situation.

Being truly independent also means you are alone. Now, let us look at the situation that developed in 1985, when we had a worldwide rash of aviation accidents, a lot of public concern. You have referred to a crisis of public confidence which took place there.

I think some of that lack of confidence was misplaced in that context, but nevertheless it existed. I would not have wanted to be an FAA administrator independent, serving a seven-year term, appointed for instance by a previous President, in that kind of crisis situation, because you would not have any backing from anybody.

There would be a lot of people who would be willing to let you float, cut you free; and I do not know that that would be desirable. I do not know that it would necessarily contribute to the continuity of people in the position.

So that is part of what we have to look at.

Senator FORD. What if the Secretary and the administrator are in conflict?

Mr. BURNETT. Well, that would be another situation. The only thing that I think we have to judge this is what has happened in the Department of Justice with the FBI, and I do not know. I think it might be helpful for the committee to look to the extent to whether that has happened there or if that is a matter of a different institutional context.

I know in introducing your legislation, Mr. Chairman, you referred to that as an example, and I think it is the kind of thing that needs to be looked at.

Senator FORD. Of course, it appears the FBI gives you ulcers before you assume office.

Mr. BURNETT. I think it would be, taking on that responsibility.

Senator FORD. Do you believe that to date the FAA has been more interested with industry concerns than those of promoting aviation safety?

Mr. BURNETT. Well, I think the problems I see with the effectiveness of the FAA—and there are some—is primarily due to the deep interface between the FAA and the industry it regulates. Now, I do not have a remedy for that, because I think that deep interface arises from the pervasive nature of the FAA's regulatory powers.

In other words, they certificate aircraft. By the time they get an aircraft certificated, they could be considered the co-designers of that aircraft because their involvement is so deep.

Then it means that they are not—if they see some disturbing trend in connection with that aircraft, they have psychological commitment to the fact that it is safe. So it takes a lot to convince them that they have problems with it. It ends some of their responsiveness.

And there is no—that is not a nefarious situation. That arises from very legitimate institutional factors, and there is no easy remedy to it. I think the best thing that can be done for that problem is a lot of oversight, and the committees of Congress provide the FAA with a lot of oversight.

And it frustrates the FAA that they have that much. Sometimes it does the NTSB because, due to the extent to which we have to testify. But we are eager to do that.

The location of the FAA within the DOT is another source of oversight, and I think that the oversight they get from the DOT comes much more from the perspective of the airline passenger, who is the voter. And if we talk about political interference in that context, I think most of it that I have seen has been in the sense of reflecting what public demands are for some action and for some movement.

So I think the industry has a much more ready access to the FAA than it does to DOT and therefore is a lot more comfortable with having an independent FAA.

And if your question was aimed at this issue of the mandate within the FAA's legislation to promote the aviation industry, I am not particularly uncomfortable with that mandate. I would not want to see an FAA that has the responsibility for conducting the air traffic control system, but did not have the responsibility to try to do that in a way that would promote the efficiency as well as the safety of the system.

I do not think that there will be major impact from changing the wording of the FAA's mandate. I do think that is going to change the FAA very much.

But I am very comfortable with the idea that they do have an obligation when they give grants for airports and when they design the nation's airway system, when they provide air traffic control services, to promote aviation not only through safe programs but through programs that provide for the efficiency and the expedition of the industry's activities.

Senator FORD. How would you feel if they had an independent FAA and the trust fund was also off budget?

Mr. BURNETT. Well, Mr. Chairman, I believe I agree with your position that, from the aviation safety standpoint, I believe it would be better to have the trust fund off budget, because I think there would be fewer constraints on the ready expenditure of that money for aviation safety purposes.

Now, if I were concerned—if my position was one that was primarily concerned with macro economic issues, a true unified budget would be preferable. But I am looking at it from a standpoint of aviation safety. I believe that that is your primary concern, and in that context I think that would be a better thing.

Senator FORD. Mr. Burnett, are you an independent agency?

Mr. BURNETT. Yes, we are.

Senator FORD. Who do you report to?

Mr. BURNETT. Well, it seems to me that we report to Congress.

Senator FORD. Do you have any trouble with visiting with some members at the White House in case it is necessary?

Mr. BURNETT. We do not ordinarily do that. Primarily, the way I understand the mandate in our legislation, it is that we are not supposed to make reports to them that we do not make also to Congress.

Certainly if I felt I needed to go down there and convince them of something that they needed to do and if that was the best route to do that, I would do so.

Senator FORD. You would not have any problem with going down there?

Mr. BURNETT. Although the problem would be what access would I have? Can I go in? Can I get an appointment with the President this afternoon? I doubt it. In fact, one time I had a hard time getting an appointment with the Director of OMB.

The Secretary of Transportation, who is at least theoretically ranking the Director of the Office of Management of Budget, should not have the difficulty I would have in getting attention over there.

Senator FORD. Well, let me just say to you that the Director of OMB around here seems to be God, and I think everybody else is subservient. And so you may be ranking, but when they tell you how much money you are supposed to get and you shave everything else, that indicates what happens.

Do you have any problem with the other agencies within the Department of Transportation as it relates to the safety requests or recommendations?

Mr. BURNETT. Well, we are always having certain disagreements with them and trying to——

Senator FORD. Well then, so maybe the FAA is not there by itself as far as disagreements are concerned.

Mr. BURNETT. Oh, no, I think that is true.

Senator FORD. If the FAA was naked, do you think it would be more responsive to you? I mean, uncovered by the Department of Transportation, do you think they would be more responsive to you and your safety recommendations than having to go to the Secretary and then be filtered down and filtered back up?

Do you think you would have direct access to the administrator?

Mr. BURNETT. No, I doubt it. I doubt that they would be as responsive, and they have a good record of responsiveness to us on the technical issues anyway. And I think that certainly would be continued.

But I think when we got into the larger questions where our recommendations bring in fundamental economic questions in relation to the industry, the ones where we tend to have more contention with them, I think having the DOT oversight is an advantage.

Senator FORD. We have a vote on, so if you all want to go ahead I will go over and vote and then come back. Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman.

Thank you, Mr. Burnett, for being here. I appreciate your testimony and I agree with many of the points that you make in your statement.

First of all, I would like to ask, how would you interface with the Federal Aviation Administration if that agency were independent? pendent?

Mr. BURNETT. Well, I think it would be basically the same, that our interface would be essentially the same as it is now. I think sometimes the strategy that we follow when we can't get the FAA to adopt one of our recommendations is to appeal to the court of public opinion. And I think an independent FAA might very well not be as responsive to that appeal as one that is within the DOT.

I suppose the perspective that I am bringing to this process is that I think that it would be more difficult to do the Safety Board's work with an independent FAA than it is now.

Now, there are exceptions to that. It is not a one-sided situation. There are pros and cons to it, depending on the issues. I think general aviation issues—and I certainly do not blame John Baker with the Aircraft Owners and Pilots Association for advocating an independent FAA—because I think general aviation issues would get a whole lot more attention under an independent FAA than they probably would within the DOT, which is not going to pay a whole lot of attention to general aviation issues in the ordinary course of events or get very involved in them; and then when they did pay attention to them, would not be very well prepared to resolve them.

But I think that the interests of the airline passenger—and I think that is really the impetus for the legislation that is being proposed, is the idea that there is a crisis of confidence on the part of the airline passenger. And I do not think that the airline passenger is going to better off with an independent FAA.

Senator McCain. Well, it is not clear to me how the statement that you just made coincides with your previous statement that if the FAA administrator had been independent in 1985, it would have been more difficult to respond to the situation, if I understood you correctly, than it would have been for someone who was under the Department of Transportation.

Mr. Burnett. Well, I think what would have happened there, and what I was referring to in that context, is the idea of continuity.

I think as a practical matter that there would have been a lack of continuity in the FAA administration and they would be more apt to have had the administrator changed because, even though they might be serving a five year term or a seven year term, that there would be little political support in a time of high heat, because the administrator would be out there, perhaps appointed by a previous President—be out there on his own.

In addition, if he needed to get action in a hurry, to respond to a situation, like we have had 500 new inspectors provided for through the DOT since I have been with the NTSB, or 1,000 new controllers, it would be much harder for them to be able to get the backing that it would take from the administration to get the resources available than it would be by themselves.

Senator McCain. Let me give you a situation which I think may be at least roughly analogous. In 1982 and 1983 we were in a severe economic depression. There were enormous pressures brought against Mr. Volcker to change the monetary policy of this country.

Most people believe that the reason why he resisted those pressures is because he was indeed independent. Could a case be made that a person who is independent and does have a seven year term or a set term of office would be less responsive to the pressures of public opinion than one who is an appointed official. who could be removed at the whim of his superior, like the Secretary of Transportation?

Mr. BURNETT. I agree, there are circumstances like the one you describe where an independent agency would be an advantage. The problem is that I do not regard the central problems that we are now having to be arising from political interference or political pressure on the DOT or from the DOT.

Senator MCCAIN. Well, at this particular point in history I would have a tendency to agree with you, but I also think that we could draw a scenario where that would not be the case.

Mr. BURNETT. I think so, too, and I would agree with that. As I say, there are pros and cons to this issue. My sense in balance is that we are better off with having an FAA as part of the DOT.

Senator MCCAIN. Well, I am very frankly undecided on this issue, because I think there are very strong arguments on both sides.

But I do think your statement, where you say that we should not lose sight of one of the original purposes of the creation of the Department of Transportation, to provide a vehicle to establishing a unified, coordinated national transportation policy, is indeed accurate.

And I think in our last hearing the very expert witnesses indicated to some degree that the rationale for the creation of the establishment as it exists today was very well thought out and contemplated to a great degree before the decision was made.

I also understand that, at least in my opinion, part of the reason for some of the allegations against the FAA are grounded in funding. I am not sure that increasing the independence of the administrator changes the enormous problem we still have with this trust fund and our reasons for not expending those moneys.

Whether the administrator is independent or not is not in my opinion, going to motivate this Congress to make, and the administration to make, the difficult decision, and that is to sacrifice the deficit in order for us to release these funds.

And if there is some really criminal behavior, in my opinion it is the failure of both the administration and the Congress to see that those moneys are expended for the reasons that we tax the American people.

I wonder if you agree.

Mr. BURNETT. I think in the battle for resources an independent FAA would be less effective than having the backing of a Departmental Secretary.

Senator MCCAIN. Well, let me draw another scenario. Suppose you had a Secretary of Transportation who was told by the administration to which that Secretary is obviously loyal, do not make any waves on this issue because we do not want to tell the American people that the deficit is increasing and we want to use this as a way to meet our Gramm-Rudman goals, and if we do not we are not going to meet it and we are going to have to cut defense.

It seems to me that an independent administrator would be more immune to those kinds of pressures.

Mr. BURNETT. Yes, that would be true. But you see—and he could go to the public. He would be in a better position to go to the court of public opinion in that situation than would be even a Cabinet member.

But within this OMB process and all the complexities of it, that is something that is really not done in public, and it is done with a whole lot of suppressed information around it. And in that context, I think the Cabinet member is in a much better position to get the administration committed behind resources when it is needed.

And I think we have seen examples since I have been involved in this process where that has happened.

There is another issue that we have not discussed, and it also cuts both ways and that is the procurement process. One of the frustrations that the FAA has very deeply is the time it takes them to get through and get the project through the procurement process.

And there is a level of review at DOT that they are not happy with. Now, I think it is probably a good chance that cutting out that DOT review of procurement could expedite in some cases the procurement process. It will not solve all the problems.

Senator McCAIN. Would not the Secretary view that as an abrogation of their responsibilities, if we cut them out? That would be like telling the Secretary of Defense that they would be cut out of the process when the Navy decides on a shipbuilding program, I would suggest.

Mr. BURNETT. That is very true if you actually—if the DOT gave the FAA independence for procurement, they would lose their ability to be accountable, or at least they would be accountable, but they would not have the ability to control what they are accountable for.

Also, because of this interface that I mentioned that is very deep between the FAA and the industry, I think from the public management of public resources aspect there may be some value to having that kind of review by the departmental level as far as the efficiency of the expenditure of money.

But again, it slows down the process.

Senator McCAIN. Would you agree that from your perspective a significant part of the dissatisfaction or crisis in confidence, as you describe it, exists on the part of airline passengers?

Mr. BURNETT. I was using, excuse me, Chairman Ford's words there. Those are not mine. I do not want to be guilty of plagiarism.

Senator McCAIN. You have got to be careful about that these days.

As Yogi Berra said, you never want to try to predict, especially when you are talking about the future.

Do you believe that, if indeed these trust funds had been released or would be released, that this crisis in confidence, as the chairman described it, would have been dramatically less than it is today?

Mr. BURNETT. Well, no, I do not. But that is not because I do not believe that the trust fund should have been released. I think the crisis in confidence is primarily coming, not from safety issues, but from economic issues that is causing—when people are delayed at airports.

And I have had members of Congress ask me, this is undoubtedly a safety problem, and people are confusing the two. We have had generally, I think, a trend of improvement in aviation safety.

The one concern that I think that we have where we may have had some detrimental movement, I believe, is in the air traffic con-

trol system, where we have had a great demand placed on the system and maybe exceeding its capacity. But otherwise, we have had generally improvements.

And I think the crisis in confidence, and I believe that Chairman Ford when he introduced this legislation reflected that, that this is in part coming out of the economic issue. But nevertheless it is real in terms of the perception of the people.

But I think we would be—and the Safety Board is an accident investigation agency, and how to organize or finance the Government in order to prevent accidents—you know, there is a long tunnel between the accidents we look at and the other end, so our perspective on this thing is very limited.

But certainly we can see areas in which the expenditure of more money for wind shear, low level wind shear alert systems, for instance, could have been financed out of the trust fund, and those things would have put us in a much better position today than we are.

And so the lack of resources has been a limiting factor.

Senator McCain. I am required to go vote. I would only say in response that if this money had been released, we would have more airports for these aircraft to land, and I think that that is one of the crucial aspects of the whole issue of delays which ultimately obviously impacts severely on safety.

The committee will recess for about ten minutes, until Chairman Ford returns. I expect him back momentarily. Thank you very much, Mr. Burnett.

[Recess.]

Senator Ford. The committee will come to order.

First let me apologize for the delay. It happens every once in a while. But we were told there would be an immediate vote following the vote that I left to make, and then the Majority Leader and the Minority Leader got into a long colloquy as it relates to what was going to happen in the next six or seven weeks and the target date for getting out, and others had to join in before we got to our vote.

Senator Stevens and I hustled, and I owe a public apology, and I did on the floor, to Senator McCain because he stayed here to carry on the committee and he missed the vote. So I may have done him a favor by not worrying about missing a vote in the future, but if he had not missed a vote I apologize to him, and not only on the Senate floor but here.

The next witness will be William Bolger, president, of the ATA. Bill, if you want to come forward.

STATEMENT OF WILLIAM F. BOLGER, PRESIDENT, AIR TRANSPORT ASSOCIATION

Mr. Bolger. Thank you, Mr. Chairman.

In the interest of time, I would summarize my statement.

Senator Ford. Your statement will be included in the record.

Mr. Bolger. Thank you.

The airlines vigorously applaud your efforts, Mr. Chairman, and those of your colleagues who have joined with you in recognizing that a major change must be made in the structural design of the

Federal Aviation Administration if we are to assure for the nation the needed growth in safe and efficient aviation.

For too long we have debated the issue and consequently have fallen farther and farther behind in modernizing the air traffic control system and increasing airport capacity. For too many years we have been exercising the age-old prerogative of pointing blaming fingers at each other, instead of working together to find the solutions to these two major needs.

Who cares at this point whose fault it was that the air traffic control system failed to be modernized as soon as it should have been, or that we have not taken the steps to build another major airport in nearly 15 years? What does it matter at this stage whether one administration or another or all of the recent ones collectively have not spent all the moneys collected and deposited in the aviation trust fund?

If the nation cannot afford the immediate expenditure of the almost $6 billion now surplus in the trust fund, have these moneys allocated for aviation needs over a period of seven, eight years instead. But let us not take any more of the taxes nor user fees collected in the future for aviation purposes and let them be horded in a surplus account, but instead let them be used for the purposes intended.

This nation, despite all of our current problems, enjoys the safest and the most efficient air traffic control system in the world, and we can have for the most part the most modern and generally efficient airports.

However, we have not kept pace with growth, nor under our current governmental structure will we likely do so in the future. As has been said many times by many people, commercial aviation is not the luxury mode of transportation it once was. Today and for years into the future, it will be the only cost effective mass transportation system we have to move people and critical cargo over long distances in short periods of time.

It is essential. It is critical. It is vitally necessary to make the required changes in the governmental structure which will control the future of aviation, and so that as much lost time as possible can be made up and the process is expedited to give this nation the air traffic control system it needs into the 1990's and well into the next century.

What is required is an organization which, under the watchful eye of the Congress, the executive branch, and the public, is given access to our best minds, adequate financial resources, and a mission to improve our airport and airways systems.

There are in essence four key areas which must be addressed: the budget process, procurement, personnel, and the need for an independent FAA management. In order to correct the problems afflicting the FAA, we must deal at once with all four of these elements.

S. 1600 begins this process by providing for the re-establishment of the FAA as an independent entity within the Federal Government. Equally important is its call for a seven year term of office for the administrator.

Further, it would give real promise to the idea of bringing together short term and long term airport and airway enhancement

programs in a cohesive, logical fashion. We fully support this initiative.

On the issue of funding, the fundamental problem has been and remains the current budgetary system that has resulted in the administration's not seeking necessary levels of support.

We must design a funding mechanism which guarantees that user demand, as reflected in a rationally determined fee, will in fact be translated directly into system support.

We must also provide the administrator not just with the funding, but also with the ability to obtain new and better equipment in a timely manner through a simplified, updated procurement process.

Finally, FAA personnel have been and remain the agency's most important asset. The issues associated with the FAA personnel situation, of course, are extraordinarily complex. They include everything from the funding-driven shortage of various types of employees to the inability to motivate individuals to accept transfers and even promotions due to the limitations of the Federal pay structure.

Serious consideration should be given to permitting a significant adaptation of the personnel system on the basis of common sense and good labor and management judgments. The time to make these changes is now. We must give the administrator the tools which will be needed to revitalize the FAA.

In addition, the Federal Government must take the lead in encouraging cities, counties, States, and regional authorities to enlarge current airport capacity and to plan for and build additional modern airports, for what good is the finest air traffic control system if you do not have the airports, runway capacity, terminal facilities, and so forth to accommodate the millions of flights that are required in growing numbers each year to meet the demands of people who want and need to fly and for shippers who must get their products to destinations all over the world?

All of us interested in the future of aviation must embark on an educational program to assure public knowledge about the vital role aviation plays in our commerce and in our economy.

We have been losing ground to too many nations because we did not in the past modernize the plants and other facilities so critical to the prosperity of our various industries. Let us not further strangle or stagnate our growth by not taking these steps now to let this vital industry, aviation, grow and prosper.

Before this historic Hundredth Congress adjourns, a bill should be enacted and signed into law that structures the Federal Government's role in aviation to guarantee the people of this nation the continuing lead in the aviation field. It must be the most safe and most efficient in the world.

Those are my remarks, Mr. Chairman. I would be glad to answer any questions you may have.

Senator FORD. Thank you, President Bolger.

Let me ask you two or three questions, then we will move on very quickly. Mr. Bolger, Chairman Burnett in his testimony earlier expressed the concern that an independent FAA would be better for the industry, but worse for the traveling public.

Do you agree or disagree with him?

Mr. BOLGER. I disagree. I think what we need to do is promote the efficiency of aviation and do the things we need to do to modernize the air traffic control system and to do something to enhance airport capacity. And this will benefit the public.

Certainly it will benefit commercial aviation and private aviation, but it will have the resounding benefits to the public. They will be able to fly to more places with less delays, more efficiency, and probably with less cost.

Senator FORD. Well, you cannot hardly help one without helping the other, can you?

Mr. BOLGER. No, sir.

Senator FORD. Mr. Bolger, in your testimony you stated that at DOT there is an unnecessary layer of decisionmaking that must be removed in order to permit the FAA to do its job.

If the FAA were made independent, would not OMB provide the same type of oversight? And how can this legislation be shaped to overcome this interference?

Mr. BOLGER. Well, I think the funds should flow directly through, the funds that are collected for aviation purposes. The eight percent ticket tax and the cargo shippers tax should flow directly into this agency, bypassing the unified budget approach of OMB.

Senator FORD. Your statement also mentioned how Federal procurement requirements have become too cumbersome for the FAA and that major acquisition projects have been slowed. Can you give us some specific examples, and how could these delays be overcome?

Mr. BOLGER. Well, I think the Host computers that we are talking about now, that are finally being installed—and they took years to procure. They had to go through various processes of Government, including final approval by the Department of Transportation, and that probably set an extra 18 months in that procurement alone.

And we are looking at computers that are fine, that are much better than we have today, but they are still state of the art about 1980, 1981. And it has taken them all this time and here we are in 1987 and we only have three or four of them installed and 16 others coming within a year.

Senator FORD. Thank you, Mr. Bolger.

Senator Stevens.

Senator STEVENS. Well, is not the guts of it all the money?

Mr. BOLGER. I think so, Senator. I think you have to flow money into it. But you also have to give them the authority so they can spend that money.

I think some of the problems they are having with people—for instance, we have not had a deputy over there in well over a year now, and it has to go through many iterations to get done. I think that we need the proper personnel in place to make the judgments on how to spend that money, too.

Money is critical. They cannot do anything without that major resource.

Senator STEVENS. It seems to me that the independence that you had down at the Postal Service is really related to the flow of money that you were able to generate by the activities there, plus the Postal Service had borrowing authority.

Mr. BOLGER. Yes, sir.

Senator STEVENS. Without that, the modernization of the airports and the airways just cannot take place. The "normal budgetary delay," in many instances puts us behind the curve as far as safety, isn't that correct?

Mr. BOLGER. That is correct.

We had difficulty modernizing the Postal Service because we could not get appropriations to get mechanization and later automation. Through the independent authority we had, we did this. We were not a burden on the taxpayers.

We tried to slow down, also, the increases in postage by exercising our borrowing authority for capital purposes, like you would in any good business venture. So instead of socking all of those capital investments to an expense item in one year, we were able to spread them out over a period of ten years, and we could afford them better that way.

Senator STEVENS. But much of the technology that is evolving in the field of safety takes years to produce. Unless you can schedule the production out far in advance, far beyond the Government budget cycle, it is really not possible to keep up safety-wise, is it?

Mr. BOLGER. That is right. You have to have a plan. The vendors have to know you have a plan, and they get ready and they put the investment they need to get the equipment to you.

They also have to be reassured that when they put those investments in, the plan is not going to be terminated because somebody decided in one particular budgetary year that we are going to suspend this program for the next three years.

Senator STEVENS. Well, that is the bottom line, is it not? The multi-year procurement of an independent agency would save the people who are paying the taxes for modernization improvement money in the long run?

Mr. BOLGER. Yes, sir. I think once you have the start and stop approach to it, eventually that equipment is going to cost you money. I think we are talking—in the NAS plan, it was estimated to be about $10 billion. I would bet on today's schedule before that is finished it will be $16 or $18 billion.

Nobody will own up to that right now, but I will bet that is the way it comes out.

Senator STEVENS. But if there were multi-year contracting authority, and the flow of money were more certain, you could probably edge it down with a sharp pencil below $10 billion.

Mr. BOLGER. Yes, sir, I think so.

Senator STEVENS. Thank you very much.

Senator FORD. Senator Kasten,

Senator KASTEN. Thank you, Mr. Chairman.

As I understand it, S. 1600 does not now contain a provision for removing the airport and airways trust fund from the unified Federal budget, is that correct?

Senator FORD. That is correct. That will be another question.

Senator KASTEN. And you are in favor of that?

Mr. BOLGER. Yes, we are, Senator.

Senator KASTEN. And the idea is that by doing that you would have access to those moneys which now are tied up in a number of

different kinds of accounts and under certain circumstances are counting against the so-called deficit numbers, is that right?

Mr. BOLGER. The current $6 billion surplus is in that particular category, yes, and that is wrong. The moneys are needed for the aviation programs and they ought to flow directly into those purposes and not be held hostage for some other reason.

Senator KASTEN. Now, some of us have been in favor of making those moneys available without some of these other structural changes. As Senator Stevens pointed out the question of money is an important one, but let us just for fun say that we were able to work out the question of this trust fund, and that those dollars went directly for the intended purposes, absent that question you still feel that you need to have an independent FAA, is that correct?

Mr. BOLGER. Yes.

Senator KASTEN. And what, in addition to the money questions, are the specific reasons?

Mr. BOLGER. Well, for one thing alone, continuity of management. We would have that. We have had five Administrators in the last dozen years, plus two acting in between there. How can you execute the necessary long-range plan if you do not have the continuity of management?

Your personnel practices are outdated for a fast-moving agency like the Federal Aviation Administration. There are no incentives for people to want to accept a transfer where we need them in a more critical area than where they are. If the grade levels are the same and the ranges in those grade levels are the same, we have a disincentive.

Just what you have today is an incentive to get your 20 years in and get out, 20 years, a person recruited in their thirties. And today, when you need those skills, you should not have that disincentive.

You need a personnel practice and policy that says, okay, you can get out in 20 years if you go into this particular field, but you are not going to be penalized if you stay a longer period of time; there are other advantages to you.

We need to modernize the personnel practices and to recognize that this is a different structure than trying to be a clerk in the Agriculture Department. These are essential people to guide a critical industry, aviation, through some very fast-moving years.

And you just should not have disincentives for personnel to stay around. You should have incentives for them.

The procurement process I am sure could be shortened greatly if the FAA had their plans in effect and they had the administrator to carry out those plans and they had the authority for the funds to do it.

I think these, personnel and procurement, are two things that have been tied up in knots, and they should be relieved of those restrictions.

Senator KASTEN. Mr. Chairman, I understand we have other witnesses coming in and I think we ought to move on.

Senator FORD. Thank you, Senator.

Senator Kassebaum.

Senator KASSEBAUM. Mr. Bolger, I know that you have been very supportive as we have discussed an independent FAA and removing the aviation trust fund from the unified budget. But one of the things that has led me to become a cosponsor is the need for continuity, the need for, I think, more flexibility in approach.

I have problems with the funding process, and it seems to me unrealistic to assume that the Congress is simply going to sever all ties from this process. Whenever we have the ability to control the purse strings, we do like to have a voice.

I think that we need to find a middle ground somewhere between completely removing ourselves from the process, which we are not going to do, and allowing for an independence and a continuity, because I feel sure we are going to want to have a major role in how the structure does evolve, whether it is the NAS plan or other safety improvements.

So I suppose we are Dr. Jekyl and Mr. Hyde on this. We want the independence and I believe that is important, but I think that it is finding a middle ground.

Mr. BOLGER. Well, one thing, Senator. I do not think any agency, whether it is the FAA or any agency of Government, should be set so free that it is not accountable to the elected representatives of the people. We have to find that right match so it has the freedom of operations that it needs and freedom of expenditures that it needs, but still have the Congress having very severe oversight responsibilities involved here.

I do not know the exact mechanism to do that, but I would think it would be a terrible mistake to set any Federal agency free without being responsible to the elected representatives of the people.

I never wanted that freedom in the other agency and I do not think we can use that as part of our system of Government. We just do not want a Federal Government that free.

Senator KASSEBAUM. Should the National Transportation Safety Board retain its oversight authority?

Mr. BOLGER. For a long moment this morning, I thought Jim Burnett was saying that he should be reporting to the Secretary of Transportation, but he did not seem to want an independent agency for the FAA, and yet he is independent.

Yes. To get away from being funny about this, yes, I certainly do. I think that is a police action almost, and I think you need that. I think looking at an accident, whether it is aviation or highway or serious highway problem with a bridge falling down, whatever it is, I think you need somebody, a separate review channel, to look at that.

They should not necessarily have the last word, but they should be independent enough to look at that type of situation and give a very objective report on it.

Senator KASSEBAUM. Thank you, Mr. Chairman.

Senator FORD. Senator Exon.

Senator EXON. Thank you, Mr. Chairman.

Just one short question, Mr. Bolger, and I appreciate you coming here. This is a very important matter that I think we are working on.

I believe you heard the earlier testimony by Mr. Burnett, and I think one of the thrusts of his testimony was that he was worried

about just creating a separate agency in and of itself would not necessarily make the bureaucracy of the FAA more responsive.

I happen to think we have a good FAA. I think overall they have done a good job, but I have had the impression that the bureaucracy over there was extremely difficult to move. After they got set on one course, there was just no changing them. I did not think maybe they were responsive as some of us in the Congress felt they should be on certain items.

How do you basically feel about that? Do you agree that the FAA bureaucracy has been less than totally responsive to some of the problems that we have? And do you agree with Mr. Burnett or do you disagree that just creating a separate agency might make that bureaucracy more entrenched than it is now?

Mr. BOLGER. I do not think it would be more entrenched. It depends upon the people running it. In the final analysis, I think what we are talking about here is giving them the opportunity to have this independence, to get the job done.

Then you have to pick the right Administrator to follow it through. I think—frankly, I think they will be less entrenched in the bureaucracy and would welcome the opportunity to get things done.

You have very fine people over in the FAA, a very fine professional staff throughout the country. I think they would welcome an opportunity to eliminate some of the bureaucratic procedures they have had to be subjected to, and would do the job even better.

And of course, it will all depend on who we get as an Administrator. I mean, that is critical.

Senator EXON. Is it your feeling, then—and I am coming at you from my perspective as a new member of this committee who has jurisdiction.

Is it your feeling, then, that you do not agree with Mr. Burnett's feeling, and that if we did go ahead and make this a separate agency, as you support, with some additions that I think we should consider, that that might elevate the FAA, take it out of the Department of Transportation and have a better chance of making it more responsive to the oversight committees who have responsibility?

Mr. BOLGER. I think it would. I think the one major thing it would do is eliminate it from partisan political activities. I think that would be—you would find—I mean, over the years various administrations have interfered in one way, shape, or form for their own reasons in this, and I think you need the independence to get the job done.

This is a long range job. We have been talking about it for 20 years. We do not want to be talking about it for another 20 years. We want to start action, hopefully soon, so they can get the job done they need to get done, so the future will be assured for aviation.

Again, as I said to Senator Kassebaum, we need to make sure, if we set this agency free from the Department of Transportation and the OMB processes, that we do not let them get so free that they are not subjected to the review and the scrutiny of the elected representatives of the people. I think that will be Congress' responsibility to do that, and it should be their responsibility.

Senator EXON. Thank you, Mr. Bolger.

Thank you, Mr. Chairman.

Senator FORD. Thank you, Mr. Bolger, for your excellent testimony. You have always been very cooperative and helpful.

Mr. BOLGER. I certainly will.

[The statement follows:]

STATEMENT OF WILLIAM F. BOLGER, PRESIDENT, AIR TRANSPORT ASSOCIATION OF AMERICA

Mr. Chairman, members of the Committee.—I am William Bolger, President of the Air Transport Association of America. On behalf of our association of twenty-three carriers, representing 97 percent of the scheduled revenue passenger miles flown in this country and a comparable share of the air cargo market, I want to begin by thanking you for the opportunity to appear here today.

I cannot overemphasize the importance which we in the air transportation business attach to these hearings. You are, in a very real sense, determining whether or not the United States will continue to have a healthy, vibrant and innovative system of air commerce. We, of course, believe that such a system is absolutely fundamental to a strong economy.

Before I go on to address the specific problems which we now confront, and to propose solutions, I would like to digress briefly into the history of today's dilemma and make an observation on the challenge it provides.

Less than ten years before the United States put the first man on the moon, President Kennedy had offered the challenge to the American people to do just that. Meeting this challenge with a highly energized, motivated and well equipped agency, the Congress and the American people saw to it that the mission was a success.

At about the same time that Neil Armstrong took his famous first step, however, another technological challenge was being raised to which we have not responded successfully. I am, or course, referring to the airport and airway system capacity constraints and deficiencies which began to emerge in the late 1960's. For the first time, aircraft were lining up in long lines awaiting takeoff. Experts warned at that time of impending chaos if we did not, as a nation, move to address these problems. The message was that we had to do more than apply "bandaid" cures, such as the high density traffic airports rule imposed in 1969 as a "temporary" remedy.

What emerged from this situation and the ensuing debate was the Airport and Airway Development and Revenue Act of 1970. The report which accompanied this legislation, noting the necessity for a logical program of aviation spending, ironcially stated as follows:

Under this legislation a better future is promised because a trust fund will be established and there will be a direct relationship between the use of the system and the money generated to meet the needs required by the users.

That was as good a theory in 1970 as it is today. The problem is, that in the airport and airway context we have failed to keep this promise to ourselves. The trust fund concept has not worked despite our high expectations because it failed to maintained that necessary relationship between system use, growth and spending.

We must now reserve this course if we are to keep air commerce functioning effectively. We cannot tolerate a national air transportation system expected to accommodate 500 to 600 million passengers annually in the 1990s, in which the last major airport built will be in excess of twenty years old before there is any chance that the next one will come on line. We cannot afford a state of affairs in which target dates for a air control computer technology advances are being pushed five and six years into the future when, in fact, the potential for these advances exists today. We cannot embrace circumstances in which we are told one day that there is no need for more air traffic controllers, and the next that we must have many hundreds more.

What is required is an organization which, under the watchful eye of the Congress, the Executive Branch and the public, is given access to our best minds, adequate financial resources and a mission to improve our airport and airway system. We cannot overemphasize the urgency of the problems and the need to [illegible] a national resolve to meet the challenges confronting us in our national air transportation system.

What specifically is wrong with our current approach to the FAA? The answers, in large measure, have begun to emerge in the questions to which you alluded, Mr. Chairman, upon the introduction of S.1600. How do we see to it that the FAA is

supported by an adequate, consistent and dependable revenue stream? How do we assure that the best possible technology is pursued and obtained in a timely fashion? How do we best equip the FAA workforce to meet the challenge of a rapidly changing air transportation system?

These questions, a slight variation, have been raised again and again in the testimony before this Committee and in the ongoing national debate over aviation policy. They suggest, I believe, a common perception of the problems of the FAA here in the Congress, among the former managers of the system and throughout the aviation community. While we clearly have a long way to go in resolving these questions, it strikes me as an extremely healthy sigh that we agree they exists!

These keys areas—the budget process, procurement and personnel, along with the need for independent FAA management—define the parameters of the problem. These problem areas, of course, are substantially interwoven. In order to correct the problems of the FAA we must deal with all four of these elements.

S. 1600

S.1600 begins this process by providing for the reestablishment of the FAA as an independent entity within the federal government. Equally important is its call for a seven year term of office for the Administrator. We fully support this initiative.

The simple truth is that, while the idea of an FAA under the Department of Transportation might look good in theory, twenty years of experience has taught us that it does not work. I think that a former Administrator captured the essence of the problem quite well in pointing out in his recent testimony the Department's new requirement for thirty-one copies of all FAA proposed regulations for Departmental review. It is precisely this type of oppressive oversight that has inhibited the ability of the FAA to respond to rapidly changing circumstances. This unnecessary layering of decision-making must be stripped away in order to permit the managers of the system to work effectively.

It is essential that we consolidate the authority to run the FAA with the responsibility for its operation. The way to do that is under a strong, publicly accountable Administrator who, in fact and in law, is in charge of the FAA—and who has no other agenda.

S. 1600 would give real promise to the idea of bringing together short term and long term airport and airway enhancement programs in a cohesive, logical fashion. It would send an all-important message to all parties of interest that the Administrator is the force to be reckoned with and that the Administrator can be expected to make a real difference.

As to the concern raised regarding the loss of a "cabinet voice" to speak on behalf of the FAA, I would simply note that the level of public attention and national resolve to maintain a safe and efficient air transportation system will, in our view, more than fill the need.

THE BUDGETARY PROCESS

On the issue of funding, the fundamental problem has been and remains that the current budgetary system has resulted in the Administration's not seeking necessary levels of support for the FAA. For example, during the last five years, with their exploding demand for increased services from the FAA and growing public concern about the adequacy of the infrastructure, budget requests have been nearly $1.5 billion below Congressionally authorized levels. Despite urgent aviation needs, non-aviation budgetary demands and priorities continue to impede proper attention to the aviation system.

As a result, artificial limitations on spending are arbitrarily capping system capabilities. We have not come close to a true capacity ceiling on the system—we have unfortunately, chosen by default to utilize only a portion of the available potential. As we witnessed with the implementation of the first phase of the expanded East Coast Plan, which significantly facilitated traffic flow and reduced delays in the New York area, there is plenty of room for expanding system capacity—the problem is one of applying the money and the talent to get the job done. We must begin thinking in similar terms on a national basis.

While the National Airspace System Plan (NAS) is designed to provide for capital improvements to bring the FAA's 1960's vintage technology into the 1980s, we should not lose sight of the fact that even as that new equipment finally begins to make its presence felt, still new and better technology will be in the offing. Will the FAA be in a position to seriously pursue this new technology? Unfortunately, experience indicates that the answer is no.

It is clear that we will remain in a deep technological "black hole" if we do not deal realistically and candidly with the budgetary aspects of the airport and airway system crisis. Even following the clear recognition reflected in the NAS Plan of a major systemic problem, we have continued to see project after project slip further into the future because of continuing budgetary failures and their downline impact on research, development and acquisition cycles. The budgetary quagmire negates the benefit of long term planning at the same time that it produces inefficiency and escalates costs.

What to do? We believe that the answer lies in simplicity. We must design a funding mechanism which guarantees that user demand, as reflected in a rationally determined fee, will in fact be translated directly into system support. We have learned, all too well, that the trust fund concept is not the way to achieve this goal.

It is our view that the current popular call to take the Airport and Airway Trust Fund "off budget"—while a major improvement—would not fully correct this particular defect with the current system. Steps must be taken as well to provide a simplified and streamlined budgetary and appropriations process for the FAA which will guarantee a consistent funding stream and assure that tax dollars collected for aviation purposes are expended in a timely fashion to meet aviation needs.

While such a system must provide for appropriate Congressional and Executive oversight of the FAA, we should not perpetuate a system in which the all-essential ability to respond to dynamic change by an operating entity such as the FAA is constrained by unrelated budgetary issues. It simply make no sense for an economically deregulated aviation industry—which is capable of supporting an effective aviation infrastructure—to be throttled in its effort to meet consumer demand because of an arbitrary decision to treat all government agencies in the same manner.

PROCUREMENT

We must provide the Administrator not just with the funding but also with the ability to obtain new and better equipment in a timely manner. At the present time a major system acquisition by the FAA in planned—at optimum levels—to take between 63 and 95 weeks and involves some 163 "sign off" stops. That, of course, is time and effort on top of the budget and appropriations cycle. The unfortunate reality is that the system is so cumbersome that we see the FAA even today buying equipment which is no longer state of the art, simply because of the lead time required to justify the purchase.

Unfortunately, for a technologically oriented agency such as the FAA the federal procurement system has become too cumbersome to permit response to rapidly changing needs. This system should be simplified on the basis of sound business principles. There has to be a better way—and we believe that can be found by an aggressive FAA management permitted the flexibility to act responsibly.

PERSONNEL

Finally, FAA personnel have been and remain the agency's most important asset. Experience indicates, however, that despite substantial labor and management effort, a true common understanding has been illusive. This lack of understanding was dramatically reinforced by the recent vote by the air traffic controllers to replace PATCO with a new union.

The issues associated with the FAA personnel situation are extraordinarily complex and include everything from the funding driven shortage of various types of employees to the inability to motivate individuals to accept transfers, and even promotions, due to the limitations of the federal pay structure. The point is, that given the highly specialize character of the FAA workforce, and the obvious problems which it has encountered but not resolved, it ill behooves us to go on with business as usual. Again, it is our view that if the problem is ever to be resolved that will come about only though innovations not possible under the rigid personnel system now in place.

For example, the current federal personnel regulations and controls substantially impede the ability of the FAA to utilize staggered work schedules, part-time employees and retirees. This is true despite the fact that the front line employees would welcome such relief. Similarly, in hiring employees, rigid constraints in the existing system continue to impede the FAA ability to build staffs quickly, when and where they are needed.

What is needed is that we take a step back and look at the personnel system. What we see is a system designed for general government applicability which, unfortunately, is ill-suited to the needs of an operating entity such as the FAA. Serious consideration should be given to permitting a significant adaptation of that system

on the basis of common sense and good labor and management judgments. The time to make these changes is now. We must give the Administrator the tools which will be needed to revitalize the FAA.

An important move toward addressing many of the problems, impeding the FAA was taken this past May be Senators Inouye and Stevens with their introduction of S. 1159. That bill, which suggests solutions through a government corporation approach, contains a number of features which warrant serious consideration by this Committee.

On behalf of the ATA carriers, I would like to thank you once again for the opportunity to appear here this morning. We are acutely aware of the importance of these hearings—and of your ongoing endeavor to prepare legislation which will truly improve the functioning of the aviation system. We remain eager to work with you in pursuit of these urgently needed improvements.

Senator FORD. Thank you.

The next witness will be Dan Todd, vice president, AOPA. Dan.

STATEMENT OF WEBSTER B. TODD, SENIOR VICE PRESIDENT FOR GOVERNMENT AND TECHNICAL AFFAIRS, AIRCRAFT OWNERS AND PILOTS ASSOCIATION

Mr. TODD. Good morning, Senator.

First let me make apologies for John Baker, our President. He has been called to a meeting of our board of directors in Philadelphia that was only scheduled yesterday.

And second, let me say what a pleasure it is for me to reappear before this committee, albeit in a slightly different status than when I was chairman of the NTSB.

I would like to just make a few summary points if I may that pull together some of our written submissions. The first is that AOPA has supported the independence of the FAA for more than a decade, and indeed it has been our pleasure to work with you and other members of the committee and the staff in the drafting and analysis of S. 1600.

The two primary reasons that we see for the need for independence for the FAA is, first, the link of authority and responsibility, so that the administrator indeed has the resources both personnel and financial and policy freedom in the operating technical sense to discharge the functions of his office and also be held accountable for those actions.

One of the problems with the FAA being part of the Department of Transportation, frankly, is the inability to determine who is making what decisions on what issues. And in testing the system to find out why we are on track or off track or going in a particular direction, it is very difficult to identify, in fact, whether they are FAA positions or DOT positions or someone's in between.

The need to expose and link directly the authority and responsibility I think for an administrator is most important.

Second and of equal importance is the ability, having done that, to return decisionmaking to a more professional basis than it is today, in effect the need to provide the administrator with the opportunity to go forward on his own and accept the responsibility for the direction that he takes.

In our opinion, AOPA's opinion, S. 1600 is a better vehicle than some of the other vehicles that have been proposed, because it is simpler. It deals with the issue of independence and does not get specific and therefore run the risk of eliminating or overlooking certain provisions or actions or areas of operation.

I think that the overall policy, national transportation policy, might well be left with the Department of Transportation and the Secretary, so long as all of the operating considerations, not just the air traffic control system but airman and aircraft certification, airport standards, and all of the other operating considerations are clearly within the purview of the FAA.

I think that the term of an FAA administrator is an important consideration and part of a separation. The average life of a political appointee with Senate confirmation is 18 months, and that has been adequately, unfortunately, demonstrated in the case of the FAA with the series of administrators that we have had over the last dozen years.

I do not think that it is necessary to worry about the relationship of an independent agency with the Congress. I as Chairman of the NTSB had that relationship and was in fact the person who implemented Public Law 93-633, which created the Safety Board as an independent agency.

The fact that even as an independent agency we had the obligation, both appropriation and authorization, to come before both the House and the Senate to articulate our needs for resources and what our policy and operating plans were to disburse those resources was not a problem.

The great benefit of independence was the fact that—and I do not say this lightly—was the fact that if we wanted to order some more stationery, we could do it without having to call the Assistant Secretary for Administration over at the Department, and that on a daily basis permits a much clearer understanding and discharge of mission.

I on behalf of the AOPA wish to congratulate this committee on raising this subject with the seriousness that it has, and would certainly hope that there would be expeditious consideration in this Congress of the issue of FAA independence.

Thank you very much.

Senator FORD. Thank you, Mr. Todd.

I have a couple of questions I would like to ask.

Earlier today I am sure you heard Chairman Burnett express his concerns that an independent FAA may be better for the industry but it would be worse for the traveling public.

What is your reaction to his statement?

Mr. TODD. I disagree with his position entirely. I believe that an independent FAA would in fact be more responsive to its constituency, which includes both the traveling public and the industry that provides the service for those travelers, whether they be on scheduled air carriers or on general aviation aircraft, simply because they are able to make decisions that are technically professionally competent without any second guessing or interference from people that frankly are unqualified to participate in those kinds of detailed decisions.

Senator FORD. Are you saying to me that when FAA's recommendations, with their knowledge and background, expertise, whatever, by the time that filters through the system, a lot of the good things are dropped off?

Mr. TODD. Not only are a lot of the good things dropped off, Senator, but in fact, a goodly number of the pushes and shoves and

probes and directions to the FAA or upon which the FAA acts are not generated by any professional problem need. They come from an outside source that has a different agenda.

Senator FORD. Mr. Todd, you mentioned a number of problems that have occurred in aviation in the last 18 months.

How, in your opinion, would an independent FAA make a difference? Would it have made a difference?

Mr. TODD. I think it would make a difference or would have made a difference, and will make a difference because the ability of an administrator to deal with problems in the context of those problems and not in the context of someone else's agenda that may or may not be relevant to the problems. Independence would allow for a clearer discussion and a clearer decision, and a better articulation and development of policy and the ability to implement that policy.

One of the interesting recent developments within the FAA, for example, is the creation of the air traffic management system and a new flow control computer that, from what we have seen of it in the industry is going to be of significant benefit both in efficiency and from safety considerations, and that was done outside of, almost, a series of directives from the administration and the department as to how they should go forward and manage their own affairs. They just did it.

More of that will occur if the FAA was independent.

Senator FORD. You, I think, agree with the position in the bill of a fixed term for the administrator.

Mr. TODD. I do.

Senator FORD. Is the time sufficient in the legislation to accomplish what we both want done, better industry and better position for the traveling public?

Mr. TODD. We think anything in the range of a minimum of six or seven to a maximum of ten will provide that opportunity, yes, sir.

Senator FORD. Fine. Thank you, Mr. Todd.

Senator Kassebaum.

Senator KASSEBAUM. Based on your experience dealing with the National Transportation Safety Board, do you feel that it should still maintain its independent oversight responsibilities?

Mr. TODD. Yes, ma'am.

Senator KASSEBAUM. Rather than possibly being included in the FAA as S. 1600, now seems to provide?

Mr. TODD. I think that the NTSB performs a vital check to the operating system. The technical capability that the Board staff has, the lack of, if you will, responsibility for their actions (by that I mean their recommendations not having regulatory impact) is important because it allows them to develop and pursue lines of thought and direction that can be discussed without anybody worrying about the consequences. This provides a more wide ranging consideration and provides for a better solution. I think that only can be accomplished in an independent relationship of the Safety Board with the operating modal agencies.

Senator KASSEBAUM. I did not hear Mr. Burnett's comments, but might not that have been what he was referring to when he said the traveling public would not be better served? Was it his belief

that the NTSB should not lose the ability to be sort of a watch dog, knowing that he and the NTSB have fought battles over air safety and air traffic control issues? Did he feel that independence from the FAA was important to the impartiality of the NTSB?

Mr. TODD. I think perhaps that was. I was, not to put words in Jim's mouth, but I was somewhat surprised at his articulation of what he felt the board's impact was as far as the administration or the FAA or the department was concerned. Or his feeling the need to go to the department to make the FAA do something. I certainly never had that problem.

If the recommendations are well thought out and they are clearly articulated, the FAA indeed responds in a very responsible fashion. And as far as the administration is concerned, with the Chairman reporting jointly to the Congress and to the President, when there was need to raise a policy issue or discuss something with OMB or the White House of a policy nature, there was never any problem in getting in to do that. And likewise on the Hill.

Senator KASSEBAUM. Thank you.

Senator FORD. Let me ask you a question, and I apologize to you, Jim, but something popped into my head.

Do you think Mr. Burnett would have gone through the routine of suggesting changes to the Department of Transportation, allowing that to go down to FAA and then let it come back up, and then that would be where he had to make his recommendations, that is where he would get his answers. Why he would say that DOT is more responsive to him?

Mr. TODD. I think and——

Senator FORD. We are speculating a little bit, are we not?

Mr. TODD. I speak now, going back to my term as Chairman, there were indeed times when the Safety Board would make a recommendation to a modal administrator where we did not feel perhaps that that recommendation was given the proper urgency or weight of consideration. We did not, in my term at least, use the department as a crutch. We took the modal administration on directly without any need for the department, and in fact, that made our recommendations better, knowing that they had to be articulated, defended and discussed on their own merit as opposed to if you do not pay attention to this particular recommendation we will take your paperclips away.

Senator FORD. Thank you, Mr. Todd.

Senator Exon.

Senator EXON. Thank you, Mr. Chairman.

Mr. Todd, just one, maybe two questions.

The Aircraft Owners and Pilots Association has been involved very positively, in my view, for a long time on aviation matters.

When was it that your organization made the determination that it would be in the best interests of aviation to have a separate FAA or has that more or less always been the position of your organization?

I guess what I am trying to get at, was there anything in particular that changed your minds?

Mr. TODD. No. From the beginning of the creation of the department and the insertion of the FAA therein, there was always a

skeptically cocked eyebrow at AOPA about the impact that that would have on clear aviation policy and clear operating decisions.

Formally I do not believe the AOPA articulated that thought until about 1979, and since then it has been our policy that where the FAA issue was discussable, that a look should be taken at independence.

Senator EXON. You are strongly for the separate, freestanding agency and the separate, freestanding budget, I take it. Is that correct?

Mr. TODD. Yes. I would add on the freestanding budget that nothing should be implied in that phraseology that takes an independent agency, whether it is the Safety Board or the Post Office or the FAA, out of and away from the normal authorization, appropriation process. I feel that one of the things that has hampered administrators is the fact that they have not been able to come up and articulate in front of the appropriate congressional committees what their needs are because as part of a Cabinet department, they have been given orders to march by that are set by a different agenda than the technical rationale for the agency's existence.

Senator EXON. I take it, then, that, if the FAA had a separate standing budget to allow them to come up and make their case to the decisionmakers rather than going through proxies, that that probably is the strongest argument for a separate, freestanding agency.

Mr. TODD. Indeed. And the second side of that sword is one that I think needs to be also recognized and articulated, that if in fact, as independent professionals, they are able to come to the Congress of the United States and propose programs and gain acceptance for their programs, they are also clearly publicly charged with the deliverance of what they said they would do as opposed to now a series of confusing statements and articulations and fingerpointing so that nobody knows who did not do what or who did what.

That to me, the linking of the authority and the responsibility, is one of the most important benefits that would come out of making the FAA an independent agency.

Senator EXON. I guess what you are saying, Mr. Todd, at least what I am hearing you say, is that with the complications we have in aviation today with deregulation, that none of these things are going to be easily solved in the future. You just happen to feel that this is such a high priority matter and that if we can streamline the decisionmaking process with the separate agency, it would be a significant step in the right direction to try and get something done constructively and as speedily as possible about the problem that we all recognize.

Mr. TODD. That is correct.

Senator EXON. Thank you, Mr. Todd.

Thank you, Mr. Chairman.

Senator FORD. Senator Kassebaum has additional questions for you, Mr. Todd.

Senator KASSEBAUM. Thank you, Mr. Chairman.

Mr. Bolger and the ATA, as you know, are supportive, but they would go another step terminating the aviation taxes and replacing them with a schedule of user fees.

How do you feel about that?

Mr. TODD. AOPA would view that as something that might be debated, might be watched over time, but we do not think it is appropriate now. The independence of the agency, the ability of the administrator to in fact go forward with his agenda with the concurrence of Congress is sufficiently important a decision to make that I would hate to see it get muddied in an argument over financial control. That is such a sensitive subject, both on the Hill and downtown, that it might delay the proper consideration of independence for the FAA .

Senator KASSEBAUM. Thank you, Mr. Todd.

Senator FORD. Thank you, Mr. Todd. We appreciate your cooperation and your appearance here today.

Thank you for appearing.

Mr. TODD. Thank you for the opportunity.

[The statement follows:]

STATEMENT OF JOHN L. BAKER, PRESIDENT

AIRCRAFT OWNERS AND PILOTS ASSOCIATION

Mr. Chairman. I am John Baker, president of the Aircraft Owners and Pilots Association (AOPA). Our organization represents the interests of 260,000 general aviation pilots and aircraft owners. We have been engaged in that work for nearly half a century and will begin celebrating the 50th anniversary of our founding next year. General aviation is the largest segment of airspace and airport users, comprising 98 percent of U.S. civil aircraft, 96 percent of the pilots, and accounting for 85 percent of total civil aircraft flying hours in our country.

Is it any wonder we are vitally interested in the outcome of S. 1600, a bill to reestablish the Federal Aviation Administration as an independent agency? On behalf of general aviation, I want to commend you for the legislation in this session of Congress.

AOPA believes that the series of hearings you are holding to study the feasibility of an independent FAA is vital to developing solutions to the problems facing the national air transportation system. We greatly appreciate the opportunity to participate in them.

With me today is Mr. Webster B. (Dan) Todd, AOPA senior vice president for government and technical affairs. Mr. Todd joined us recently, bringing to AOPA long experience in aviation, including service as chairman of the National Transportation Safety Board (NTSB). In fact, he served as the first chairman of the restructured, independent agency after enactment of the Independent Safety Board Act of 1974. He is uniquely qualified to share with this committee his experiences and observations of how independence helped strengthen the activities of that important government agency.

If independence was vital to ensure proper functioning of the safety board, it is equally important for FAA.

An independent FAA is needed. Now.

Independence for FAA is not a new concept. It has been raised before, most recently before this instance in legislation proposed by Congressman Barry Goldwater, Jr. in 1979. AOPA renewed the call for an independent FAA in April of 1985. Time has only strengthened the arguments in favor of passage of your legislation.

In the intervening 18 months, system indicators of the health of the national air transportation system have continued to worsen.

Delays of air carrier flights have multiplied.

The vital modernization of the system, the NAS Plan, has fallen further and further behind schedule.

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The vital modernization of the system, the NAS Plan, has fallen further and further behind schedule.

The unobligated balance in the Aviation Trust Fund continued to grow.

National leadership to tackle the politically explosive but essential issue of developing new airports and expanding existing facilities has been nonexistent.

Micromanagement of FAA policy, personnel, and safety prerogatives has become unacceptable.

The public's perception of an air transportation system falling down around us has reached intolerable levels.

Taken together, all of the above demonstrate clearly that the current structure of Federal management of the U.S. air transportation system has not kept pace with changing times and changing demands. This condition is especially apparent since the growth and reconfiguration of the system by deregulation.

If, in 1979, support was expressed in the Congress for an independent FAA, the need for independence is more paramount today.

We believe an independent agency should have at its helm an administrator who would be presidentially appointed for a fixed term of six to eight years, to bridge election cycles and provide much-needed continuity to this position. The Administrator could be removed only for cause, by the President and with the consent of the Senate.

It may be desirable to provide the new agency with a formal advisory body consisting of representatives from the industry and the Congress. This advisory body would be the mechanism through which the needs of the air transportation system would flow. It would be advisory only, but its recommendations would carry considerable weight.

We also believe consideration should be given to a linkage of FAA with NASA, in perhaps a newly formed Cabinet-level post. The distinction between air and space transportation will be increasingly blurred as our technology develops, and it may be time to create this 21st century department.

It is time to return the management of the system back to aviation professionals. In our view they are the men and women of the FAA, with, of course, oversight by the U.S. Congress.

If we do not take this action now, then the problems I have mentioned above will only become exacerbated. Service will continue to degrade, access will become increasingly difficult to obtain for legitimate users of the aviation system.

More importantly, future needs will not be addressed, and the inexorable movement towards a second-rate system, already started, will gain momentum.

There simply is no evidence to support the premise that an FAA subordinate to DOT has been beneficial for aviation.

In the face of this record, it is perhaps a fitting irony that DOT assumed stewardship of FAA on April Fools' Day, 1967.

When Congress decided to make the National Transportation Safety Board independent in 1974, it accepted the argument that NTSB's basic mandate could not be met under the original legislative structure, which placed NTSB in a subordinate position to DOT.

Today, at a time of unprecedented strains on the air transportation system, history is repeating itself with the FAA. It is an agency unable to properly function in its assigned mission to develop, manage and regulate the U.S. air transportation system.

DOT, on the other hand, has demonstrated a long history of missed opportunities. By far the greatest opportunity lost has been its failure to perform a vital function of its mission. Since the advent of deregulation in 1978, the nation has needed more than ever before a national plan for the future of our changing aviation system.

In establishing DOT, Congress specified that the agency was to devise and coordinate overall transportation policy for all modes of transportation. There has been no such activity on the part of DOT. Development of that national plan was a natural priority for this Cabinet-level department.

Instead DOT has engaged in a pattern of day-to-day interference and second-guessing of aviation experts by political appointees in the Office of the Secretary, who change with administrations and who essentially engage in aviation on-the-job training every four years.

The failure of the Department to address its mission to develop a National Aviation Policy, in favor of short-term micromanagement of competent aviation professionals is particularly onerous as we experience daily system failures.

The root causes of today's problems can be traced to a lack of a coherent National Aviation Policy. That's what the DOT should have been developing in partnership with FAA over the last 20 years, and most particularly since 1978.

Yet, today we still lack a blueprint for aviation similar to the policy initiatives in the 1950s that led to development of the interstate highway system.

Where is the long-range planning for airport development?

Where is the leadership and vision to devise a coherent statement of airport and airway access?

Where is the planning to address the needs of all aviation users, the public priorities, access to the system, both scheduled and on demand?

Long-range planning that our experts in FAA should have been helping to formulate and implement is non-existent. In its place the Department of Transportation has usurped operational command of FAA that it was never intended to have.

The Department of Transportation has evolved into no more or no less than a highly politicized FAA.

As a result, billions of dollars have been spent; millions of man-hours worked, and all that we have produced is a system that has fallen behind the times and that is not getting any better.

Instead of working with the aviation professionals of FAA, DOT stewardship of the agency has resulted in technological fits and starts, some coordinated, some not; some long-range, some short.

Yet, very little real capacity has been added to the system. The system is strained and undergoing new stresses every day.

An effective national air transportation system is vital to the continued security and economic health of this nation.

The technology is available to ensure our system remains the best in the world.

Leadership and vision have been lacking.

The aviation experts of the FAA are in the best position to provide that leadership. They are the individuals who should be held accountable and responsible for the development of the system, the safety and efficiency of air transportation--because they understand aviation. They are trained; they are experts.

For more than 20 years these experts have been constrained by too many overseers. The effect of the Department of Transportation, and then the Office of Management and Budget, have tended to stifle long-range planning, prolong procurement efforts, deter initiatives and promote inefficiency in dealing with day-to-day operational needs.

Direct action by the Office of the Secretary in matters concerning aviation safety, capacity, research and development, personnel, procurement and other essential elements of the air transportation system has prevented FAA from carrying out its operational responsibilities.

FAA cannot hire or promote senior staff, no matter how extensive their record of aviation achievement, without concurrence by the Office of the Secretary. Senior FAA executives have been removed from their jobs because of disagreements with the Office of the Secretary.

These developments were never intended by the Congress.

FAA cannot propose its own budget and then take its case directly to the people through their representatives in the Congress, without DOT imposing its own judgments on system needs.

Congress never intended non-aviation professionals to assume this role.

Experience has shown that the FAA Administrator no longer is the final authority on technical functions and safety of the system, as intended by the Congress.

Twenty years of this kind of interference is enough. Our political leadership two decades ago decided to try a new way of managing and operating the national air transportation system.

That decision may have been proper for that era. That decision has shown itself out of date for today's needs, let alone for the necessity to plan for tomorrow.

The aviation industry is concerned by this trend and various elements in one fashion or another would like to see DOT stewardship of FAA diminished or removed altogether.

Congress is concerned, as can be shown by the 1978 legislative proposal and today's legislation and hearings.

We believe the time has come to respond to these concerns. It is time to restore the independence of FAA, to permit it to return to the mission mandated by the Congress--management, regulation and development of the national air transportation system.

Senator FORD. The next and final witness is Mr. Ed Stimpson, who is President of the GAMA.

Ed, if you would come forward, we would be delighted to hear your testimony.

STATEMENT OF EDWARD W. STIMPSON, PRESIDENT, GENERAL AVIATION MANUFACTURERS ASSOCIATION; ACCOMPANIED BY DAVID D. THOMAS, CONSULTANT ON AVIATION SAFETY

Mr. STIMPSON. Thank you, Mr. Chairman.

I also have with me today Mr. David D. Thomas. Mr. Thomas was the first FAA career Deputy Administrator, appointed by President Johnson. He served for over 30 years in the FAA, and he has some very strong views about this subject, and he serves as a consultant to GAMA on aviation safety matters.

At a recent meeting of our board of directors, the concepts embodied in S. 1600 were strongly endorsed by our board, and we pledge to work with you on the enactment of this legislation.

I was personally privileged to work with three FAA administrators and was a participant in the effort to establish the Department of Transportation in the first place. And so after a great deal of reflection, I have personally come to the conclusion that the time has come to again make the FAA an independent agency.

You know, Senators Monroney and Jackson and others, at the time the Department of Transportation was formed were very concerned about the independent role that FAA might have in the Department of Transportation. They were concerned that safety functions be left with the FAA administrator, that he make the calls. And I think over a period of time we have seen a general erosion of the true independence of the FAA in the Department of Transportation to make these calls.

Now, this gets fuzzy because it gets involved many times with the budget, many times with personnel, many times with other things, and I think that over a period of time, as I mentioned, this has become fuzzier. Some of the Senators who were involved in the original DOT act would be surprised as to what has happened today.

I think that the S. 1600 provides a mechanism to really make the changes that need to be made. I think that in addition to what you have in S. 1600, that you are going to have to do some other things. I think you are going to have to address the funding issues. As you know, we have all been frustrated and disappointed over the operation of the Aviation Trust Fund, and we must find a way to assure the adequate funding of the FAA. Hopefully, down the line

a mechanism can be found to incorporate into S. 1600 a funding provision.

Second, I would recommend essentially all current FAA functions remain within the independent FAA. I think one other thing sometimes gets confused is the subject of promotion. Some promotional functions should be left in the DOT. But let's make sure that we do not, in trying to say FAA does not have a promotional role, cut it so thin that they do not promote the development of new airports, that they lose concern about certification of some people abroad, a very important role of FAA. We certainly must not cut the functions short, which they do in safety promotion now. The extra prevention efforts and other things they do are very vital to the safety promotional program. And I think this needs to be clearly looked at as you go through this bill.

The third factor is, of course, the Administrator's fixed term, which we support. We would also suggest you look closely at the terms of your bill saying the administrator should be a civilian. When this was originally stipulated back in 1958, the thought was that they did not want to have military domination. But since that time, on several occasions, you have passed special legislation to allow military people to become administrators. So maybe it is time just to throw that provision away and to have the right to look for and confirm the best person possible.

Fourth, I think you need some strong provisions for industry consultation. While statutory advisory groups may not be necessary, I think the legislation still needs to give direction that industry is consulted: the consumers, the users, everybody who has a part of this system, in the actions that the independent agency would take.

And of course, you have heard much testimony to the fact that the procurement system needs to be modernized, perhaps with some sort of extraordinary powers in order that procurement can be brought up to date. The NAS plan is falling behind, and the authority of the administrator should be reviewed and strengthened in that regard.

And finally, modernization of the personnel practices.

So, Mr. Chairman, we think you have an excellent skeleton, and I would like to just have Mr. Thomas comment briefly with his views of an independent FAA also.

Senator FORD. Mr. Thomas.

Mr. THOMAS. Thank you, Mr. Chairman.

I have spent more than 50 years in aviation, and more than half of that in the FAA. I worked in FAA when it was in the Department of Commerce, as an independent agency, and under the Department of Transportation. I worked directly with about 11 administrators, and in the last six, as office director or higher, associate administrator or deputy administrator. And in looking over the history of the FAA and looking over its actions, it is my view that the period of time when it was an independent agency is when it was most effective.

That was really right at the time the jets were coming into being, into commercial use, and the air traffic control system was modernized. As a matter of fact, the same computers are being used now. Those are the ones they talked about trying to replace.

And a great deal of actions were taking place simply because the administrator had the responsibility and the authority to move out.

I have seen no advantage to a Cabinet officer getting access to the President, considering some of the administrators. No one could get in to see President Eisenhower faster than General Quesada, or President Kennedy faster than Jeeb Halaby. It depends on the personal relationship and the strength of the administrator.

Mention has been made of money. That has been very critical. As part of the study made for GAMA, it became quite evident that organizational structure and money were not related. I thought perhaps they might be. The most effective tool that aviation has ever had to progress has been the Aviation Trust Fund and the Airport and Airway Improvement Act (1970). Up to that time there was very little money that went into the aviation system, and when it did, it was because of some catastrophe—Grand Canyon, Senator Cuttings death. Then it was shut off because of some greater perceived need: the Vietnam War, the Great Society, others.

As a matter of fact, the funds from the independent FAA went down under the Department of Transportation until that act was passed.

So I urge great consideration being given to the trust fund.

The major problem with having the other layer that I found was just unnecessary delay. The budget process has been made. Sure, the Office of Management and Budget will review and the Congress will review and make the appropriations. They did that as an independent agency. But now you have another layer that does the same thing, and that adds to the confusion. When it comes out of the Department of Transportation the administrator can no longer speak of his needs, but he has to speak about what the Department of Transportation needs are. So that needs consideration.

A great deal has been mentioned about Civil Service rules and personnel. That needs consideration.

But in general, as has been mentioned here before, the most vital thing that is needed is to make the FAA independent again, make the administrator responsible for doing the job, and I think you will see that he gets it done.

Thank you.

Senator FORD. Thank you very much.

I have two or three questions, and I am sure Senator Kassebaum does, too.

Mr. Stimpson, I am sure you listened intently to Chairman Burnett express his concern earlier that an independent FAA would likely benefit the aviation industry and not the traveling public.

In your statement you suggest that the FAA needs greater industry consultation.

Can you comment on Mr. Burnett's concerns and why you think we should legislate that an independent FAA must have a formal consultation with the industry?

Mr. STIMPSON. Well, I do not share Chairman Burnett's concerns. I think a strong FAA is a very important thing for the consumer, for the industry, for the user, for everybody across the board, and I do not think an independent FAA necessarily means it is controlled by the industry. If it is, it is not going to be a strong FAA, and we want a strong FAA.

I think the important point is that everybody's viewpoints get into this process because the FAA can only be effective if it understands what is going on out there. If it understands what is going on in the factories with composites, for example, new technologies, it will have an appreciation of these. It has got to understand what is going on in airport development, what is going on in rural communities with small airports. It has got to view the consumers' needs as well.

And so I think that you put all these together, you do not want the FAA off here by itself so that it is not relating to what is happening in the real world. And I think that is the point I was trying to make here.

And I do not think that the Chairman's comments would necessarily come true with an independent FAA. We did not see it before. The FAA, when it was independent, was not the lackey of the industry by any means. And I do not think it would happen again.

Senator FORD. You also mentioned that when FAA was an independent agency, morale was high throughout.

In your opinion, has there been a drop in the morale at the FAA, and if so, why? Do you have a reason that it may have?

Mr. STIMPSON. Well, I think it is subjective. I think—there are no formal opinion surveys on this that I can produce for you—but I think from talking to people in the FAA there needs to be a new recharging, a new spirit, you might say. I think Administrator McArtor is trying to do this with some of the programs he has, charging out I think Mr. Thomas will confirm that in our day in the FAA it was a much more go-go outfit in many ways. And I think taking it out of the Department of Transportation would have a very positive effect of moving forward with an administrator who could be up front and a whole staff which would follow him accordingly.

Dave, do you have anything?

Mr. THOMAS. I think it was very important to General Quesada when he came in, he brought in jet airplanes. We were flying old piston airlanes then, and the industry was going to jet airplanes, so he brought them in saying we want you to be as smart as the people you regulate. And that was a morale boost. There was a lot of training brought in, more research and development; it just gave a whole spark to it.

And I would like to add one thing: Jeeb Halaby used to nearly always start his staff meetings by saying your main job is to protect that woman in the third seat who has never ridden before. And we got the message long and strong and clear that the traveling public and the people that fly the airplanes are as much our job as the pilot and the airplane itself.

Senator FORD. Mr. Stimpson, you mentioned that we should not maybe say that the Administrator be a civilian, that we might consider that it be a military individual. I think we all recognize the interconnect between the FAA and the military, and particularly in time of emergency.

Would it be that we would have a permanent position as deputy be from the military?

Mr. STIMPSON. I do not think you would necessarily want to say that absolutely, but when that has been the case in the past, it also has worked well.

So I think that you might want to have a provision if the administrator had a military background, you would want to make sure the deputy had a civilian background. You would not want military in both top spots.

But I think that the option should be there, and it seems sort of ridiculous to have you pass a special bill every other year or so for an administrator. The law could so be written that you would try and seek out the very best talent, whether it is civilian or military, to fill the slots.

Senator FORD. We talked to the new Administrator, Mr. McArtor, about a deputy, and of course, that has always been a problem because politics gets into the appointment to where we are trying to keep it out. We want an independent expertise operation that has the ability to move with the times, or at least let us try to attempt to get caught up. And it was suggested to Mr. McArtor that he might want to bring in the head of one of the regional areas that is about as far as he could go without going up to the Administrator. When we have had a vacancy, many of the regional Administrators have been acting, and FAA has continued to survive.

He accepted that suggestion. I understand he now has a deputy in his office that allows him to continue the Civil Service coverage but becomes a member of his staff when a deputy is confirmed. That seemed to help morale some, not a great deal.

Is there any thought in your mind that we might want to do something like that?

Mr. STIMPSON. Well, this individual here again proved, is another living example of how a career Civil Servant in the FAA could be extremely effective. When he was appointed Deputy Administrator by President Johnson, the first in history, it really gave a great boost to the agency. It worked very well with Mr. Thomas being the operating man, you might say, and General McKee being the one who dealt with the Congress a lot and built the supersonic transport, or tried, I should say, and did some of the other things which were involved.

So I think there is certainly merit to that, and—you might even want to specify that, after further consideration, in the law.

Senator FORD. Thank you, Mr. Stimpson.

Senator Kassebaum?

Senator KASSEBAUM. Mr. Thomas or Mr. Stimpson, I wonder if you could give me a little background on the reasoning at the time that the Department of Transportation was formed. DOT was established in order to better coordinate a national transportation policy, is that not right? So that what had been independent areas, railroads and aviation and so forth, were combined in one agency.

Do you worry that as we move back now to an independent agency, we will lack a focus for a coordinated transportation policy?

Mr. THOMAS. Well, Senator, I think a lot of us were for a Department of Transportation at that time because we needed some way to make sure that the train and the rubber-tired vehicle and the

airplane could all work together to give us the best transportation system, and there should be policy set up to do it.

It did not work that way. It was a lot easier for the people assigned to those jobs to second guess what the modal administrations were doing, and I am not real sure that I know now after 20 years what our public transportation policy is as far as coordination. We have a Highway Trust Fund which operates separately; we have an Aviation Trust Fund which operates separately; we have Maritime, Coast Guard, altogether in a sense a total transportation for the U.S. But what I had hoped for was some broad policy for the modal administrators and hold them responsible to see that those things were done. And it did not happen. If it happened, I am not aware of it.

Senator KASSEBAUM. Well, I personally believe that a coordinated policy is important. I think it is possible to have that same initiative and yet maintain seperate operating branches.

Mr. Stimpson?

Mr. STIMPSON. I would agree with you, Senator Kassebaum. I think the importance of a national coordinated transportation policy is even more important than it was 20 years ago, and I think this is why you want to look very carefully at the functions you would take out of the department and put in an independent agency. You would probably want to leave, perhaps, some of the aviation planning functions in the department so you would have that interface with economic regulation, under your proposal, along with some other things.

So I think as you go forward crafting this legislation, this is an area that you would want to assure without taking the safety and the operating functions out, but leaving some of the planning functions as you try and achieve this goal.

But some of the other functions of the FAA, really, do not fit into the Transportation Department anymore. You know, it is a different agenda. They are not planning, they are running a system, and not necessarily in this broader picture.

Senator KASSEBAUM. I suppose actually one could make the argument that it might be easier to focus on overall policy if the operating functions and the worry over these functions were removed.

A lot depends on the direction, of course, of the Secretary at any given time.

Mr. STIMPSON. Absolutely.

Senator KASSEBAUM. Thank you, Mr. Chairman.

Senator FORD. Thank you, Senator.

Thank you, Mr. Stimpson, Mr. Thomas. It has been good to have you all here today and the other witnesses.

I again apologize for delaying you. It is very difficult to set your own agenda and have your own appointments that you can be guaranteed that you will be able to meet. So, under the circumstances it was very difficult for me.

I do thank you and look forward to working with you. You have all been very cooperative, and we look forward to putting a package together that when it falls together, all of us feel like we have done a decent job and that we will improve air safety.

So thank you, gentlemen, very, very much.

[The statement follows:]

STATEMENT OF EDWARD W. STIMPSON, PRESIDENT, GENERAL AVIATION MANUFACTURERS ASSOCIATION

I am Edward W. Stimpson, President of the General Aviation Manufacturers Association which represents 36 companies involved in the manufacture of general aviation aircraft, engines, avionics and component parts.

At a recent meeting of the GAMA Board of Directors, the concepts embodied in S. 1600 to create an FAA independent of the Department of Transportation were strongly endorsed. We pledge to work with the committee on the enactment of this legislation.

I was privileged to have worked under three FAA Administrators and was a participant in the effort that established the Department of Transportation. After a great deal of reflection, I have personally come to the conclusion that it is essential that the FAA again become an independent government agency.

Earlier this year, our board asked Mr. David D. Thomas to prepare a paper on how to achieve a more effective FAA. Mr. Thomas served in the FAA for over 30 years. He was the first career FAA Deputy Administrator when appointed by President Johnson in 1965. He continued to serve as Deputy Administrator when the FAA was incorporated into the Department of Transportation and was Acting Administrator for approximately one year. Mr. Thomas' paper strongly recommends the removal of the FAA from the Department of Transportation, the reestablishment of an independent agency, and a set tenure for the FAA Administrator. We will make a copy of Mr. Thomas' report available to the Committee staff.

The DOT was to become the focal point for coordinating all modes of transportation and establishing a truly national transportation policy. These lofty objectives have not been realized. The authors of the DOT Act also intended to protect the safety role of the FAA after transfer to DOT. Senators Monroney, Jackson and others incorporated specific language in the DOT Act to state that the FAA Administrator, not the Office of the Secretary, should make the safety decisions. What followed was a memorandum, written by the General Counsel of the DOT soon after the Act was signed, saying the Monroney Amendments leaving safety to the sole discretion of the Administrator, really didn't apply. Later, the DOT Act was recodified to give the Secretary complete authority concerning safety decisions.

In recent years, the relationship between the DOT Secretary and the FAA Administrator has been generally cordial and cooperative. However, as the staff of the Office of the Secretary grew to over 1,000, the FAA has received more help than it needed. Much unproductive and unnecessary review and control by a multiplicity of staff offices in the Office of the Secretary has produced the so called "micro management" of the FAA.

Taking the Old CAA out of the Department of Commerce provided a tremendous boost in agency morale and productivity. Under Administrators Quesada, Halaby and Mckee, the agency was able to respond directly to the Congress and the public.

The argument has been made that cabinet rank is important and aviation should be represented by a secretary. A strong FAA administrator who has the confidence of the President and the Congress can be highly effective. We have seen this in the past.

The safety mission of FAA must be preserved and enhanced. The responsibilities of FAA require a highly-technical and well-motivated staff. The vast operational responsibilities of FAA, as well as its functions involved with modernizing and improving the air traffic control and navigation systems, are not always well understood within DOT. The safety regulatory functions, such as certification of airmen and aircraft, are critically important and are an integral part of FAA responsibilities. The Office of the Secretary adds little except to second guess the technical decisions of the FAA.

S. 1600 provides a mechanism with which to make the needed change. Recently, a number of suggestions for structural change have been made. Some would privatize the current air traffic system. Others would split off FAA's safety and regulatory functions and establish an independent, quasi-government corporation—proposals which GAMA opposes. Without comment on the merits of these individual proposals, S. 1600 strikes the best balance—achieving a better organizational structure and assuring the protection of the public interest and safety. We have the following additional comments on S. 1600.

1. *Funding issues must be addressed:* The Congress and the entire aviation community have been frustrated and disappointed over the operation of the aviation trust fund. A way must be found to allure adequate funding of the FAA. Unfortunately, S. 1600 as defined does not address this issue. S. 1600 should establish that the trust fund first provide for capital improvement and, second, provide for oper-

ation of the FAA. An annual appropriation for operation of the FAA to cover military, government, public use and public benefit will also be necessary. In order that Congress appropriately evaluate the agency needs, an independent budget, similar to the NTSB budget, should be submitted to the Congress each year.

2. *Essentially, all current FAA functions should remain within the independent FAA:* We support the objectives of S. 1600 which would establish in the new agency the functions of air traffic control, airport grants, air navigation facilities, research and development, safety regulations and all certification activities. Economic regulations and data gathering functions that were included in the CAB would remain in the Department of Transportation.

We do not object to leaving advocacy functions in the Office of the Secretary. However, we need to recognize that certain functions, such as promotion of new airports, certification of airmen abroad and active aviation education programs, are legitimate functions of the new independent agency. Moreover, FAA must remain concerned about the overall development and health of the industry, including the development of new technologies. Like industry, FAA believes that the best "promotion" of aviation is safety in aviation.

3. *The Administrator should be appointed for a fixed term:* We support the 7 year term suggested in S. 1600. In addition, strong consideration should be given to appointing the deputy administrator from the career force. This would further help in depoliticizing the FAA. The number of schedule C appointees has also grown; these should be limited. S. 1600 also contains a provision requiring the Administrator to be a civilian. There was considerable concern at the time the FAA was orginally establishment about possible military domination, but this has largely disappeared as a result of excellent stewardship by several administrators with distinguished military backgrounds. Moreover, the Senate retains the right to confirm an Administrator. Why should a military person, qualified and capable of being Administrator, be denied consideration. You might consider a requirement that, if a military person is named administrator, the deputy must be a civilian.

4. *Provisions need to be made for industry consultation:* It is in the best interest of the general public as well as the aviation industry to have a strong FAA. The aviation community will not always agree with the FAA, but aviation community imput must be considered in the FAA process. While statutory advisory group may not be necessary, direction needs to be given in the legislation that the new agency needs to consult with the aviation community and seriously listen to the views of users, consumers, operators, manufacturers and others who are dependent on the aviation system. We will be glad to work with the Committee on appropriate language.

5. *Procurement systems needs to be modernized:* Previous witnesses testified that the FAA administrator should be given extraordinary powers to reorganize and modernize the procurement system. The NAS plan is falling behind schedule. Every effort must be made to get this program back on schedule. Procurement authority should rest with the independent FAA. Priority attention must be given to this issue.

6. *Modernize personnel procedures.* One effect of deregulation was to alter substantially air traffic patterns flown by air carriers. The carriers established new hubs and route patterns much faster than air traffic control personnel could be shifted and trained to cope with these changes. Some special provisions outside the normal civil service procedures appear necessary to provide an air traffic control work force that will meet the needs.

SUMMARY

S. 1600 to create an independent FAA is timely, needed and directly addresses one of the major problems facing aviation today—a time-consuming bureaucratic structure.

We applaud the Committee's leadership in moving ahead on this issue and we look forward to working with you to achieve a solution.

[Whereupon, at 11:55 p.m., the hearing was adjourned.]

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